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TO THE
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CONTAINING,
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relating to the UNION.

To each VOLUME are added proper INDEXES.

. VOLUME the THIRD, from 1714, to 1727.

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Lechmere moves for an Address to the King, to make farther Instances with the King of *Prussia* and the *States General*, for their more entire Concurrence with his Majesty, 466. Protest on the said Motion's passing in the Negative, 467. Motion for a farther Consideration of the King's Speech, 468. Protest on its passing in the Negative, *ib.* *M. de Palm's* Memorial laid before the House, *ib.* Debate thereon, 469. The Lords concur with the Commons in an Address to the King on that Occasion, *ib.* Debate on a Clause empowering his Majesty to employ, without Account, such Sums as he thinks proper for the Interest of the Kingdom, *ib.* Protest on the said Clause being pass'd, 470. The Parliament prorogu'd, 471. The Death of King *George I.* *ib.* State of the Peerage during his Reign, *viz.* Names of the Barons created by Patent, 472. Barons called up by Writ, 473. Viscounts created, *ib.* Earls, 474. Marquesses, 475. Dukes, *ib.* Peers of the Blood Royal, 476. Peereffes, *ib.*



T H E

E R R A T U M.

Page 249, Line last but one, read *November 1723.*



T H E
HISTORY and PROCEEDINGS
O F T H E
House of Lords,
W I T H T H E
DEBATES and PROTESTS therein,
From the Accession of King GEORGE the First.



N the History and Proceedings of the Anno 1. Geo: 1.
* HOUSE of COMMONS, is already given 1714.
an Account of the Death of Queen ANNE,
and the Accession of his Majesty King
GEORGE the First to the Throne of
Great-Britain, with the Lords Justices
Speech to the Parliament at their first Meet-
ing, on the 5th of August, 1714: We shall therefore begin
this Work with the Address of Congratulation from the
House of Lords to the King upon that Occasion.

Most Gracious Sovereign,

WE your Majesty's most dutiful and loyal Subjects, The Lords Ad-
the Lords Spiritual and Temporal in Parliament dress of Congra-
assembled, though deeply sensible of the great Loss these tulation to King
Nations have sustained by the Demise of her late Majesty, George I. upon
of blessed Memory, think it our Duty, at the same Time, his Accession to
with thankful Hearts to Almighty God, to congratulate the Crown.
your Majesty upon your happy and peaceable Accession
to your Throne: And we do, with the utmost Loyalty
and Duty, assure your Majesty of our zealous and firm
Resolutions, to support your undoubtedly rightful and
lawful Title to the Crown, against all Enemies and Pre-
tenders whatsoever.

1714.

A

Our

* See CHANDLER'S History and Proceedings of the House of Commons,
Anno 1. Geo. 1. 1714.

Anno 1. Geo. I.

1714.

“ Our Zeal and Affection for your Majesty’s Service, engage us to exert ourselves with all Vigour and Unanimity for securing the Public Safety ; and we will always, to the utmost of our Power, maintain the Honour and Dignity of your Crown : And we do with faithful Hearts beseech your Majesty, as soon as possible, to give us your Royal Presence, which we are persuaded will be attended with all other Blessings to your Kingdoms.”

This Address having been sent to the King, then at *Hanover*, his Majesty return’d the following Answer :

G E O R G E R.

The King’s Answer thereto.

“ I Take this first Opportunity to return you My hearty Thanks for your Address, and the Assurances you have given Me therein.

“ The Zeal and Unanimity you have shewn upon My Accession to the Crown, are great Encouragements to Me, and I shall always esteem the Continuance of them as one of the greatest Blessings of My Reign.

“ No one can be more truly sensible than I am, of the Loss sustained by the Death of the late Queen, whose exemplary Piety and Virtues so much endeared her to her People, and for whose Memory I shall always have a particular Regard.

“ My best Endeavour shall never be wanting to repair this Loss to the Nation. I will make it My constant Care to preserve your Religion, Laws and Liberties inviolable, and to advance the Honour and Prosperity of My Kingdoms.

“ I am hastening to you, according to your Desire, so affectionately expressed in your Address.”

August 17. The Lords received from the Commons a Bill *For the better Support of his Majesty’s Household*, which having been thrice read, was pass’d, and return’d back to the Commons on the 19th, without Amendments, as were likewise two other Bills ; to which the Lords Justices having given the Royal Assent, the Lord Chancellor made a * Speech to both Houses, wherein he desir’d them, in the King’s Name, to adjourn to the 25th, which they did accordingly ; and on that Day both Houses were prorogued to the 23d of *September*, and afterwards to the 13th of *January* : But on the 5th of that Month a Proclamation was issued for dissolving the Parliament.

The Parliament dissolved.

An

* Inserted in Chandler’s History of the House of Commons, Anno Geo. I. Pag. 6.

An exact LIST of the LORDS SPIRITUAL and Anno 1. Geo. 1.
TEMPORAL, summon'd to meet at Westminster, on 1714-15.
the 17th of March, 1714-15, being the FIRST PAR-
LIAMENT of King GEORGE the First, and the
FIFTH PARLIAMENT of Great Britain.

For the List of the Names of the Members of the House of COMMONS, with the several Alterations therein, by Undue Elections, Double Returns, Deaths, and Promotions throughout every Session of this Parliament, we refer the Reader to the APPENDIX to Chandler's Edition of the History and Proceedings of that House.

*Those marked thus * were then under Age.*

HIS Royal Highness George Augustus, Prince of Wales, &c.

William Cowper, Lord Cowper, Lord High Chancellor of Great Britain.

Daniel Finch, Earl of Nottingham, Lord President of the Council.

Thomas Wharton, Earl of Whar-
 ton, Lord Privy Seal.

William Cavendish, Duke of Devonshire, Lord Steward of the King's Household.

Charles Talbot, Duke of Shrewsbury, Lord Chamberlain of the King's Household.

Thomas Howard, Duke of Norfolk, Earl-Marshal, and Hereditary Marshal of England.

Charles Seymour, D. of Somerset, Master of the Horse.

Charles Fitz-Roy, D. of Cleveland and Southampton.

Charles Lenos, D. of Richmond.

Charles Fitz-Roy, D. of Grafton.

James Butler, D. of Ormond.

* Henry Somerset, D. of Beaufort.

George Fitz-Roy, D. of Northumberland.

Charles Beauclaire, D. of St Albans, Captain of the Band of Gentlemen Pensioners.

Charles Pawlet, D. of Bolton.

Meinhardt Schonberg, D. of Schonberg.

Peregrine Osborne, D. of Leeds.

* Wriothesly Russell, D. of Bedford.

John Churchill, D. of Marlborough, Captain General.

John Sheffield, D. of Buckinghamshire and Normanby.

John Mannors, D. of Rutland.

John Mountagu, D. of Mountagu.

* James Hamilton, D. of Hamilton and Brandon.

* Charles Douglas, D. of Queensberry and Dover.

Henry de Grey, D. of Kent.

Robert Bertie, Marquis of Lindsey, Lord Great Chamberlain of England.

Evelyn Pierpoint, Marquis of Dorchester.

James Stanley, Earl of Derby.

* Theophilus Hastings, Earl of Huntingdon.

Thomas Herbert, Earl of Pembroke and Montgomery.

Henry Clinton, E. of Lincoln.

Henry Howard, E. of Suffolk and Bindon, Dep. Earl-Marshal.

Lionel Cranfield Sackville, E. of Dorset and Middlesex, Lord Warden of the Cinque Ports.

James Cecil, E. of Salisbury.

John Cecil, E. of Exeter.

Scroop Egerton, E. of Bridgewater, Chamberlain to the Prince.

John Sidney, E. of Leicester.

George Compton, E. of Northampton, Constable of the Tower of London.

* Edward-Henry Rich, E. of Warwick and Holland.

Anno 1. Geo. I. Basil Fielding, E. of Denbigh.

1714-15.

Thomas Fane, E. of Westmoreland.
Charles Mountagu, E. of Manchester.

Henry Bowes Howard, E. of Berks.
John Savage, E. Rivers.

Charles Mordaunt, E. of Peterborough and Monmouth.

Thomas Grey, E. of Stamford.

Heneage Finch, E. of Winchelsea.

Philip Stanhope, E. of Chesterfield.

Thomas Tufton, E. of Thanet.

Charles Spencer, E. of Sunderland,
Lord Lieutenant of Ireland.

Nicholas Leake, E. of Scarfdale.

Edward Mountagu, E. of Sandwich.

Edward Hyde, E. of Clarendon.

* William Capel, E. of Essex.

George Brudenel, E. of Cardigan.

Arthur Annesley, E. of Anglesea.

Charles Howard, E. of Carlisle.

Thomas Bruce, E. of Ailesbury.

* Richard Boyle, E. of Burlington.

* Anthony-Ashley Cooper, Earl of Shaftsbury.

Edward-Henry Lee, E. of Lichfield.

Thomas Lennard, E. of Suffex.

Charles-Bodvile Roberts, E. of Radnor, Treasurer of the Chamber.

William Paston, E. of Yarmouth.

James Berkeley, E. of Berkeley.

Henry Hyde, E. of Rochester.

Montagu-Venables Bertie, Earl of Abingdon.

* Baptist Noel, E. of Gainsborough.

Robert Darcey, E. of Holderness.

Other Windsor Hickman, E. of Plymouth.

James Ratcliff, E. of Derwentwater.

Henry-Stafford Howard, E. of Stafford.

Henry Bentinck, E. of Portland.

Arthur Herbert, E. of Torrington.

Richard Lumley, E. of Scarborough.

George Booth, E. of Warrington.

Richard Newport, E. of Bradford.

Frederick Zulestein de Nassau, E. of Rochford.

Arnold Joost van Keppel, E. of Albemarle.

Gilbert Coventry, E. of Coventry.

Edward Russel, E. of Orford, first Commissioner of the Admiralty.

William Villiers, E. of Jersey.

Henry D' Auverquerque, Earl of Grantham.

John Campbell, E. of Greenwich
(and D. of Argyle) General of the Forces in Scotland;

John Poulet, E. Poulet.

Francis Godolphin, E. of Godolphin, Cofferer to the King.

Hugh Cholmondeley, E. of Cholmondeley, Treasurer of the Household.

Robert Harley, E. of Oxford and Earl Mortimer.

Robert Shirley, E. Ferrers.

Thomas Wentworth, E. of Strafford.

William Legg, E. of Dartmouth.

James Brydges, E. of Caernarvan.

Lewis Watson, E. of Rockingham.

Charles Bennet, E. of Tankerville.

Charles Mountagu, E. of Halifax, first Commissioner of the Treasury.

Heneage Finch, E. of Aylesford, Chancellor of the Duchy of Lancaster.

John Hervey, E. of Bristol.

Thomas Pelham, E. of Clare.

Henry Paget, E. of Uxbridge, Capt. of the Yeomen of the Guard.

Charles Townshend, Viscount Townshend, Secretary of State.

Price Devereux, Vis. Hereford.

Henry Brown, Vis. Montacute.

Lawrence Fienes, Vis. Say and Sele, Thomas Bellafaye, Vis. Falconberg.

* Thomas Thynne, Vis. Weymouth.

William Hatton, Vis. Hatton.

* Talbot Yelverton, Vis. Longueville.

* Henry Lowther, Vis. Lonsdale.

Henry St John, Vis. Bolingbroke.

Henry Obrian, Vis. Tadcaster (E. of Thomond in Ireland.)

George Nevil, Lord Abergavenny.

James Touchet, Ld Audley (E. of Castlehaven in Ireland.)

John West, Ld De la War.

Charles Mildmay, Ld Fitzwalter.

Edward Ward, Ld Dudley and Ward.

Edward Stourton, Ld Stourton.

Dr George Verney, Ld Willoughby of Broke.

Charles Willoughby, Ld Willoughby of Parham.

Thomas Howard, Ld Howard of Effingham.

William North, Ld North, and Ld Grey of Rolleston.

Wm Ferdinand Carey, Ld Hunsdon.

Wm St John, Ld St John of Blettho.

James Compton, Ld Compton.

* Robert Petre, Ld Petre.

Henry Arundel, Lord Arundel of Wardour.

Richard

Richard Lumley, *Ld Lumley.*
 Charles Dormer, *Ld Dormer.*
 Henry Roper, *Ld Tenham.*
 * William Greville, *Ld Brooke,*
 * Nevil Lovelace, *Ld Lovelace.*
 Banister Maynard, *Ld Maynard.*
 Charles Howard, *Lord Howard of*
Eficrick.

Charles Bruce, *Ld Bruce.*
 Edward Leigh, *Ld Leigh.*
 William Byron, *Ld Byron.*
 William Widdrington, *Lord Widdrington.*

John Colepeper, *Ld Colepeper.*
 Peregrine Bertie, *Ld Willoughby of*
Eresby.

Robert Sutton, *Ld Lexington.*
 Marmaduke Langdale, *Ld Langdale.*
 William Berkeley, *Ld Berkeley of*
Stratton, first Commissioner of
Trade.

Charles Cornwallis, *Ld Cornwallis.*
 John Arundel, *Ld Arundel of Trerice.*
 * William Craven, *Ld Craven.*
 Hugh Clifford, *Lord Clifford of*
Chadleigh.

Peregrine Hyde Osborne, *Ld Osborne.*
 John Carteret, *Ld Carteret.*

William Stawell, *Ld Stawell.*
 Francis North, *Ld Guilford.*
 James Waldgrave, *Ld Waldgrave.*
 John Ashburnham, *Ld Ashburnham.*
 Thomas Farmer, *Ld Leominster.*
 Charles Butler, *Ld Butler of Weston,*
(E. of Arran in Ireland.)

Henry Herbert, *Ld Herbert of Cher-*
bury.

Maurice Thompson, *Ld Haverham.*
 John Somers, *Ld Somers.*

Christopher Vane, *Ld Barnard.*
 * John Leveson Gower, *Ld Gower.*
 Francis Seymour Conway, *Ld Con-*
way.

Simon Harcourt, *Ld Harcourt.*
 Charles Boyle, *Ld Boyle, (Earl of*
Orrery in Ireland.)

George Hay, *Ld Hay (E. of Kin-*
noul in Scotland.)

Thomas Windfor, *Ld Montjoy (Vis-*
count Windfor in Ireland.)

Thomas Mansel, *Ld Mansel.*
 Thomas Willoughby, *Ld Middleton.*

Thomas Trevor, *Ld Trevor.*
 George Granville, *Ld Lansdowne.*

Samuel Masham, *Ld Masham,*
 Thomas Foley, *Ld Foley.*
 Allen Bathurst, *Ld Bathurst,*
 Robert Benson, *Ld Bingley.*
 James Saunderson, *Ld Saunderson,*
(Viscount Castleton of Ireland.)
 Bennet Sherrard, *Ld Harborough.*
 Gervase Pierrepont, *Ld Pierrepont.*
 Henry Boyle, *Ld Carleton.*
 Richard Temple, *Ld Cobham.*

ARCHBISHOPS and BISHOPS.

Dr Thomas Tennison, *Lord Arch-*
bishop of Canterbury.

Sir William Daves, *Bart. Ld Arch-*
bishop of York.

Dr John Robinson, *L. Bp of London.*

Dr Nathaniel Crew, *L. Bp of Dur-*
ham, and Ld Crew.

Sir Jonathan Trelawney, *Bart. L. Bp*
of Winchester.

Dr William Lloyd, *L. Bp of Wor-*
cester.

Dr Gilbert Burnet, *L. Bp of Sarum.*

Dr John Hough, *L. Bp of Lich-*
field and Coventry.

Dr Richard Cumberland, *L. Bp of*
Peterborough.

Dr Will. Talbot, *L. Bp of Oxford.*

Dr John Evans, *L. Bp of Bangor.*

Dr William Nicholson, *L. Bp of*
Carlisle.

Dr George Hooper, *L. Bp of Bath*
and Wells.

Dr Wm. Wake, *L. Bp of Lincoln.*

Dr John Tyler, *L. Bp of Llandaff.*

Dr Offspring Blackall, *L. Bp of*
Exeter.

Dr Charles Trimmell, *L. Bp of Nor-*
wich.

Dr Wm. Fleetwood, *L. Bp of Ely.*

Dr Thomas Manningham, *L. Bp of*
Chichester.

Dr Philip Bise, *L. Bp of Hereford.*

Dr Adam Ottley, *L. Bp of St Da-*
vid's.

Dr Francis Atterbury, *L. Bp of Ro-*
chester.

Dr George Smalridge, *L. Bp of Bri-*
stol, Lord Almoner to the King.

Dr Francis Gastrel, *L. Bp of Chester.*

Dr Richard Willis, *L. Bp of Glou-*
cester.

Dr John Wynn, *L. Bp of St Asaph.*

The Sixteen PEERS for SCOTLAND.

James Graham, *Duke of Montrose,*
Secretary of State. P.C.

John Ker, *Duke of Roxburgh, Lord*
Privy Seal of Scotland. P. C.
 John

Anno 1. Geo. I.
1714-15.

John May, Marquess of Tweeddale.
William Ker, Marquess of Lothian.
William Johnston, Marq. of An-
nandale, Lord Chancellor of Scot-
land, P. C.
John Dalrymple, E. of Stair. P. C.
Archibald Campbell, E. of Ilay,
Lord Register of Scotland. P. C.
David Erskine, E. of Buchan.
James Stewart, E. of Bute.
John Lesley, E. of Rothes, Lord
Admiral of Scotland.

John Sutherland, E. of Sutherland.
William Ross, Lord Ross.
John Hamilton, Lord Belhaven,
Gentleman of the Bedchamber
to the Prince of Wales.
Henry Scot, E. of Deloraine.
* George Hamilton, E. of Orkney,
Gentleman of the Bed-Chamber
in Extraordinary to his Majesty.
* Hugh Campbell E. of Loudon.

The First Session
of the First Par-
liament of King
George I.

ON the 17th of *March* the King came to the House of
Lords, and directed the Commons to chuse a Speaker
against the 21st: On which Day his Majesty opened
the Session with a most gracious Speech, † which produced
the following Address of Thanks.

An Address of
Thanks for the
King's Speech.

Most Gracious Sovereign,
WE Your Majesty's most dutiful and loyal Subjects,
the Lords Spiritual and Temporal in Parliament
assembled, beg Leave to present to your Majesty our most
humble and hearty Thanks for your Majesty's most Graci-
ous Speech to your Houses of Parliament, and to assure
your Majesty, that altho' we met together with Hearts
deeply sensible of the Goodness of Divine Providence to
us, in bringing your Majesty with Safety, and at so criti-
cal a Juncture to the Throne of your Ancestors; yet we
could not but become still more affected with that inestima-
ble Blessing, when we heard so very affectionate Expressi-
ons from your Majesty towards your People; so clear and
full Assurances from a Prince of such known Honour and
Justice, that the establish'd Constitution in Church and
State shall be the Rule of your Government; and so just
and tender a Concern for our not having obtain'd those Ad-
vantages by the Peace, which would have been but a suita-
ble Conclusion to so glorious and successful a War; nor as
yet a due Execution of some Conditions even of that
Peace, essential to the Security and Trade of this King-
dom.

‘ We

N. B. The two mark'd with * were Members in the last Parliament,
the other 14 were elected in the Room of the following, viz. Duke of
Athole, Earl of Marr, E. of Eglington, E. of Kinnoul, E. of Finlater
and Seafield, E. of Selkirk, E. of Northesk, E. of Dundonald, E. of
Broadalbin, E. of Dunmore, E. of Roseberry, E. of Portmore, Vis-
count Killyth, Lord Balmerinloch.

† See the Speech in Chandler's History of the Commons, p. 10.

* We are affected with Wonder, as well as with a just
 * Resentment, that a Pretender to Your Majesty's Crown
 * should be yet permitted to reside so near your Dominions,
 * especially after his publick boasting of an Assistance he
 * expects here, and his avowing a Design to invade this
 * Your Majesty's Kingdom.

Anno 1. Geo. I.
 1714-15.

* We are but too sensible, that our Trade is render'd
 * impracticable in the most valuable Branches of it, and of
 * the ill Effects that must have upon our Manufactures and
 * Navigation: But Your Majesty may be assur'd, nothing
 * shall be wanting on our Part, that may any way conduce
 * to the retrieving it.

* These and other Difficulties Your Majesty hath met
 * with on your Accession to the Crown, (and which we must
 * observe, in Justice to your Wisdom and Foresight, would
 * have been prevented, had your Opinion been follow'd) we
 * must confess are very great and discouraging; however
 * we do not doubt, but that your Majesty, assisted by this
 * Parliament, zealous for your Government, and the Safety
 * and Honour of their Country, may be able to take such
 * further Measures, as will secure what is due to us by
 * Treaties, ease our Debts, preserve the Publick Credit,
 * restore our Trade, extinguish the very Hopes of the Pre-
 * tender, and recover the Reputation of this Kingdom in
 * Foreign Parts; the Loss of which, we hope to convince
 * the World by our Actions, is by no means to be imputed
 * to the Nation in general.

* And these good Ends cannot fail of being obtain'd, by
 * your Majesty's pursuing with Steadiness, as you have be-
 * gun, the true Interest of this your obedient and affectio-
 * nate People: And your Majesty may, by God's Blessing,
 * depend that in Conjunction with so loyal a Parliament,
 * you will be able to lay Foundations that can never be
 * moved, not only of the Security and Glory, but even of
 * the Ease and Tranquility of your Government, and that
 * of your Majesty's Posterity; for which we offer up our
 * most ardent Prayers, that it may for ever continue to
 * reign after your Majesty on the Throne of these King-
 * doms, and in the Hearts of a People truly happy, and
 * fully sensible of their being so.

This being reported to the House the next Day, there a-
 rose a great Debate about the following Expressions, *And* Debate thereon.
*recover the Reputation of this Kingdom in Foreign Parts;
 the Loss of which we hope to convince the World by our Actions,
 is, by no Means, to be imputed to the Nation in general.* The
 Lord

Anno 1. Geo. I.

1714-15.

Lord Trevor.

Ld Bolingbroke.

E of Stafford.

D. of Bucking-
ham.

D. of Shrews-
bury.

E. of Anglesea.

A Bp of York.

Bp of London.

Bishop of Bristol.

Ld Bolingbroke.

E. of Stafford.

Duke of Shrews-
bury.

Lord Trevor (a), Lord Bolingbroke (b), the Earl of Strafford (c), Dukes of Buckingham (d) and Shrewsbury (e), Earl of Anglesea, the Archbishop of York (f), the Bishops of London (g) and Bristol (h), excepted against that Clause, alledging, 'That the same was injurious to the late Queen's Memory, and even clashing with that Part of his Majesty's Speech which recommended to both Houses, the avoiding the unhappy Divisions of Parties.' The Lord Bolingbroke expressed the deepest Concern for the Memory of the late Queen, which, he said, 'He would do all in his Power to vindicate; that he had had the Honour to be one of her Servants, and if he had done any Thing amiss, he would be contented to be punished for it; but that he thought it very hard to be censured and condemn'd without being heard.' His Lordship added, 'That his present Majesty had several Times expressed a great Respect and Tenderness for the late Queen's Memory; and was a Prince of so great Wisdom, Equity, and Justice, that he was sure his Majesty would not condemn any Man, without hearing what he had to say for himself; that so august an Assembly ought to imitate so great a Pattern.' And upon these, and other Reasons, his Lordship moved, 'That the Words *Recover, &c.* might be softened into those of *Maintain the Reputation of this Kingdom*, and that the rest of the Paragraph might be left out.' The Earl of Strafford also excepted against that Clause, urging, 'That the same would expose the Honour of the Nation abroad, which, he was sure, had suffered no Diminution during his Negotiations.' The Duke of Shrewsbury said, 'That the House of Peers ought, on all Occasions, to be most tender of the Honour and Dignity of the Crown, from which they derive their own Honour and Lustre; that therefore, when the like Clause was inserted in an Address of the House of Commons to the late Queen, upon the Death of King William *, he had expressed, to several Members of that House, his Dislike of it, because it reflected on the Memory of that Prince

(a) Created a Peer; 31st December, 1711, Lord Chief Justice of the Common Pleas at the Queen's Death, but removed 26th October, 1714, and succeeded by Sir Peter King.

(b) Secretary of State at Queen Anne's Death, but removed on the Accession of King George.

(c) One of the Plenipotentiaries at the Treaty of Utrecht.

(d) President of the Council at the Accession of King George, but removed, and succeeded by Daniel Earl of Nottingham.

(e) Lord High Treasurer at the Queen's Death.

(f) Sir William Dawes, Bart.

(g) Dr. John Robinson, a Plenipotentiary to the Treaty of Utrecht.

(h) Dr. George Smalridge.

* See the Address, with the Division thereon, in Chandler's History and Proceedings of the House of Commons, Anno 1702, p. 205.

Prince; and for the same Reason he was against the said Clause.' These were answered by the Marquis of Wharton (a), the Lord Cowper (b), the Earls of Nottingham and Ailesford (c), and the Duke of Devonshire; who express'd all Respect and Reverence for the late Queen's Memory, but distinguished between Her and Her Ministry; and maintain'd the Clause in Question by Arguments drawn from the Mismanagements of the latter, hinted at in his Majesty's Speech. Lord Cowper said, ' They did not condemn any particular Person, but only the Peace in general, because they felt the ill Consequences of it; That they who advis'd and made such a Peace, deserved indeed to be censured, but that the Words in the Address being general, no private Person was affected by them: And that the Alteration of the Word *recover* into that of *maintain*, would signify no more towards the Justification of the Guilty, than the Word *recover* towards the Condemnation of the Innocent.' Then the Question being put, Whether the Address should be recommended or not, the Negative carried it by a Majority of 66 Voices against 33.

Anno 1. Geo. 1.
1714-15.
Marquis of
Wharton.
Ld Cowper.
Earl of Nottingham.
E. of Ailesford.
D. of Devonshire,
Ld Cowper.

The said Address
agreed to by the
House.

March 23, the House of Lords, in a Body, presented the said Address to the King, who returned the following Answer:

My Lords,

" I Thank you heartily for this Address; Your Duty and Loyalty to me can never be better express'd, than by shewing a just Concern for the Reputation and Interest of the Nation, since I have no other Thought or View, but to promote the Prosperity and Happiness of my People."

The King's Answer
thereto.

May 30. The House in a Grand Committee, consider'd of the Bill For Regulating the Land Forces: And there arose a great Debate about a Clause for confining the several Regiments to those Parts of his Majesty's Dominions, for which they are allotted; viz. the 12000 Men that are on the Irish Establishment, to Ireland; and so forth. The Duke of Buckingham, the Lord Trevor, the Lord North and Grey, and the Bishop of Rochester, spoke for the said Clause: But the Duke of Marlborough shew'd the fatal Consequences it might be attended with, in case of an Invasion from Abroad, or of an Insurrection at Home, by a Number of Enemies, Foreign or Domestick, superior to the Number of Forces actually on

D. of Buckingham.
Lord Trevor.
Lord North and Grey.
Bp of Rochester.
D. of Marlborough.

1715

B

the

(a) Appointed Lord Privy Seal, September 22, 1714, in the Room of the Earl of Dartmouth.

(b) Appointed Lord Chancellor, September 29, 1714, in the Room of Lord Harcourt.

(c) Appointed Chancellor of the Duchy of Lancaster, Oct. 12, 1714.

Anno 1. Geo. 1. the Spot, where either of them should happen. The Courtiers urged, 'That his Majesty having trusted his Royal Person and Family entirely in the Hands of the Nation, and at the Opening of this Session, told the Parliament, *That what they should judge necessary for their Safety, He should think sufficient for his own* : The least they could do for his Majesty, was to leave to his Discretion the Disposal of the few Troops that were kept on Foot.' Some Lords moved thereupon, that the Foreign Officers might be excluded from that Number : But the Duke of *Marlborough* spoke in their Favour, and represented, 'That to exclude Officers, who, like the *French* Refugees, had, for above Five and Twenty Years, served *England* with distinguish'd Zeal and untainted Fidelity, would be a Piece of Injustice, and unprecedented in the most barbarous Nations.' Then the Question being put, Whether the Clauses before-mentioned should be inserted ? It was carried in the Negative, by 81 Voices against 35. Next Day the Lords read the Bill the third Time, and sent it down to the Commons.

Debate in the House of Lords about the Petition of the Conspirators against King William III. Anno 1696.

Ld North and Grey.
Lord Trevor.
Ld Townshend.

Ld Delawar.

June 1. There was a Debate in the House about a Bill for continuing * the Imprisonment of the Conspirators against the Life of the late King *William*. A Petition having been offered in their Behalf, the Lord *North* and *Grey* moved, That a Day might be appointed to consider of it ; and was seconded by the Lord *Trevor*. They were opposed by Lord *Townshend*, who said, 'He wonder'd any Member of that august Assembly, would speak in Favour of such execrable Wretches, who designed to have embued their Hands in the Blood of their Sovereign ;' and therefore moved, 'That their Petition be rejected.' Upon this the Lord *Delawar* represented, 'That after the Death of King *William*, the Parliament had left to the Discretion of the late Queen either the continuing in Prison, or enlarging of these Criminals ; That no Body doubted her late Majesty's Clemency, but that she had such a Respect for the Memory of King *William*, such a Regard to the Safety of crowned Heads, and such an Abhorrence for the Crimes these Prisoners stood charged with, that she did not think fit to release them from their Confinement : That all these Reasons were now enforce'd, by the open Dissaffection shewn to his Majesty's Person and Government ; and that they ought to be so tender

* R. Blackburn, R. Cassils, J. Bernardi, R. Meldrum, and J. Chambers, were committed to Newgate in March and April 1696, for conspiring the Murder and Assassination of King William III. In the 7th and 8th of whose Reign and since, several Acts were pass'd for continuing their Imprisonment from Time to Time, but all of them expir'd at the Death of Queen Anne.

tender of the Preservation of so precious a Life, that, in his Opinion, it were necessary to make the Act in Question absolute, and not leave the Confinement of the Criminals to his Majesty's Discretion, lest his natural Clemency should make him overlook his own Safety.' Upon this the Petition was rejected without dividing.

Anno 1. Geo. I.
1715.

July 9. The Lord *Coningsby* (a), attended by a great many other Members of the House of Commons, exhibited Articles of Impeachment of High Treason, and other High Crimes and Misdemeanours, against *Robert* Earl of *Oxford* and Earl *Mortimer*. To avoid swelling these Volumes to too great a Length, we refer the Reader to the 6th Volume of the *State Trials*, p. 103, for the Articles at large: We shall however, occasionally, give an Abstract of such as were the Subject of Debate; or may tend towards illustrating any Passage in the Course of this Work.

Articles of Impeachment exhibited against Robert Earl of Oxford.
Debate thereon.

The Lord *Coningsby* having left the said Articles with the Lords, and being withdrawn, a Motion was made, That the Consideration of the Articles of Impeachment be adjourn'd to the *Monday* following, which was back'd by the Bishop of *Rochester* (b), who urg'd, 'That this Accusation was of so extraordinary a Nature, and so very important, both in it self and its Consequences, that the House ought to proceed on it with the utmost Caution and Deliberation.' He was answer'd by the Duke of *Argyle*, who said, 'It was well known, the Prelate who spoke last, had, of late, studied more Politicks than Divinity; and was thoroughly acquainted with the Subject Matter of the Articles that lay before them; and therefore his Grace did not doubt, but his Lordship was now as ready to speak to them, as he could ever be, if he had more Time to consider of them.' After Debate the Question for Adjourning was put, and carried in the Negative, by 86 Voices against 54; thereupon the Articles of Impeachment were read. Then a Motion was made, that the Judges be consulted; that the House might be satisfied, whether the Charge contain'd in the said Articles amounted to Treason? The Lords *Trevor* and *Harcourt*, the Dukes of *Shrewsbury* and *Leeds*, the Earl *Poulet* (c), the Lord *North* and *Grey*, and the Bishop of *Rochester* were for the Affirmative; but the Lord *Cowper*, the Dukes of *Argyle* and *Montrose* (d), the Earls of *Nottingham*, *Sunderland* (e), *Dorset*, and *Ilay*; the

Bp of Rochester.

D. of Argyle.

Ld Trevor.

Ld Harcourt.

D. of Shrewsbury

D. of Leeds.

Earl Poulet.

Lord North and

Grey.

Bp of Rochester.

Ld Cowper.

D. of Argyle.

D. of Montrose.

E. of Nottingham.

ham.

E. of Sunderland.

E. of Dorset.

E. of Ilay.

1715.

B 2

Lord

(a) A Peer of Ireland.

(b) Dr. Francis Atterbury.

(c) Lord Steward of the Household at the King's Accession; but removed Sept. 24. 1714. and succeeded by the Duke of Devonshire.

(d) Made Secretary of State for Scotland, 24th of Sept. 1714.

(e) Appointed Lord Lieutenant of Ireland, Sept. 24. 1714, and Lord Privy Seal, Aug. 20. 1715.

Anno 1. Geo. I.

1715.

Ld Townshend.

Ld Trevor.

Lord Cowper.

E. of Nottingham

Lord Viscount *Townshend* (a), and some other Lords were for the Negative. The Lord *Trevor* having gone so far as to declare his Opinion, That none of the Articles amounted to High Treason: He was answer'd by the Lord *Cowper*, who challenged all the Lawyers in *England* to prove that Assertion. Nevertheless the Lord *Oxford's* Friends still insisting on consulting the Judges, the Earl of *Nottingham* represented, 'That instead of favouring thereby the noble Peer who had the Misfortune to be impeach'd, as, undoubtedly they meant it, they might, on the contrary, do him a great Prejudice; for if, upon consulting the Judges, they declared the Charge to amount to Treason, the said Lord would stand prejudged before he was brought to his Trial.' Then the Question was put upon the Motion, and carried in the Negative by 84 Voices against 52. Upon which it was moved by the Courtiers, that the Earl of *Oxford* be committed to safe Custody; which occasioned a fresh Debate.

Hereupon the Earl of *Oxford* stood up, and spoke as follows:

My Lords,

The Earl of *Oxford's* Speech in his own Defence, against the Articles of High Treason, &c. exhibited by the Commons.

'It is a very great Misfortune for any Man to fall under the Displeasure of so great and powerful a Body as the Commons of Great Britain: And this Misfortune is the heavier upon me, because I had the Honour to be placed at the Head of the late Ministry, and must now, it seems, be made accountable for all the Measures that were then pursued. But, on the other Hand, 'tis a very great Comfort to me under this Misfortune, that I have the Honour to be a Member of this august Assembly: An Assembly which always squares their Proceedings and Judgments by the Rules of Honour, Justice, and Equity; and is not to be byass'd by a Spirit of Party.

My Lords,

'I could say a great deal to clear my self of the Charge which is brought against me: But as I now labour under an Indisposition of Body, besides the Fatigue of this long Sitting, I shall contract what I have to say in a narrow Compass. This whole Accusation may, it seems, be reduced to the Negotiation and Conclusion of the Peace: That the Nation wanted a Peace, no Body will deny; and, I hope, it will be as easily made out, that the Conditions of this Peace are as good as could be expected, considering the Circumstances wherein it was made, and the Backwardness and Reluctancy which some of the Allies shew'd to

(a) Appointed Principal Secretary of State, Sept. 17, 1714, in the room of the Lord Bolingbroke.

to come into the Queen's Measures. This is certain, that Anno 1. Geo. I. this Peace, as bad as it is now represented, was approv'd by two successive Parliaments. It is, indeed, suggested against this Peace, that it was a separate One: But I hope, my Lords, it will be made appear, that it was general; and that it was *France*, and not *Great Britain*, that made the first Steps towards a Negotiation. And, my Lords, I will be bold to say, that during my whole Administration, the Sovereign upon the Throne was loved at Home, and feared Abroad.

1715.

' As to the Business of *Tournay**, which is made a capital Charge, I can safely aver, that I had no manner of Share in it; and that the same was wholly transacted by that unfortunate Nobleman who thought fit to step aside: But I dare say in his Behalf, that if this Charge could be proved, it would not amount to Treason. For my own Part, as I always acted by the immediate Directions and Commands of the late Queen, and never offended against any known Law, I am justify'd in my own Conscience, and unconcern'd for the Life of an insignificant old Man. But I cannot, without the highest Ingratitude be unconcern'd for the best of Queens: A Queen who heap'd upon me Honours and Preferments, tho' I never ask'd for them; and therefore I think my self under an Obligation to vindicate her Memory, and the Measures she pursued, with my dying Breath.

My Lords,

' If Ministers of State, acting by the immediate Commands of their Sovereign, are afterwards to be made accountable

* The following is an Abstract of the 11th Article of Impeachment, in which the Affair of Tournay is charg'd upon the Earl of Oxford, viz. ' That whereas the States General were, about September or October, 1712, in Possession of Tournay: And whereas the French King had, during the Course of the separate and traiterous Negotiation, between Robert Earl of Oxford and Earl Mortimer, and the Ministers of France, signify'd his Consent to the Ministers of Great Britain, that the said Town and Fortrefs of Tournay should remain to the States General as Part of their Barrier: And whereas her Majesty, in her Instructions of December the 23d, 1711, to her Plenipotentiaries at Utrecht, had expressly directed them to insist with the Plenipotentiaries of France, in the general Congress, that Tournay should remain to their High Mightnesses; and did afterwards declare herself conformably thereunto, in a Speech to her Parliament, on the 6th of June 1712, in which she communicated to them the Terms whereon a Peace might be made. And whereas for several Years before the said Months of September and October, 1711, there was open War between her late Majesty and the French King; he the said Earl did, during the said War, assist, and adhere to the French King, then an Enemy to her late Majesty; and did advise the said Enemy, in what Manner, and by what Methods the said Town and Fortrefs of Tournay, then in Possession of the States General, might be gain'd from them to the French King.'

Anno 1. Geo. I. 1715. } countable for their Proceedings, it may, one Day or other, be the Case of all the Members of this august Assembly : I don't doubt, therefore, that out of Regard to your selves, your Lordships will give me an equitable Hearing ; and I hope that, in the Prosecution of this Inquiry, it will appear, that I have merited not only the Indulgence, but likewise the Favour of the Government.

My Lords,

' I am now to take my Leave of your Lordships, and of this honourable House, perhaps for ever ! I shall lay down my Life with Pleasure, in a Cause favour'd by my late dear Royal Mistress. And when I consider that I am to be judged by the Justice, Honour, and Virtue of my Peers, I shall acquiesce, and retire with great Content : And, my Lords, God's Will be done.'

Before the Question for committing the Earl of *Oxford* to safe Custody was put, the Duke of *Shrewsbury* acquainted the House, That the said Earl was, at present, very much indisposed with the Gravel ; and therefore he hoped the House would not immediately send him to the Tower, but suffer him to be, for two or three Days, under the Custody of the Black Rod at his own House, where he might have the Attendance and Assistance of his Relations and Servants : That however he did not propose this as a Motion, because he was against committing him at all, but only left it to the Consideration of the House. His Grace was seconded by the Earl *Poulet* ; and no Opposition being offer'd, the Earl of *Oxford* withdrew, leaving Word with the Usher of the Black Rod, that he would be at Home. After this the Question was put, That the said Earl be committed to safe Custody, which was carried in the Affirmative, by 82 Voices against 50 ; and so the House rose about a Quarter past One in the Morning ; when the Usher of the Black Rod went to the Earl of *Oxford's* House, communicated to him the Order of the House of Peers for taking him into Custody, and left some of his Officers for that Purpose in his Lordship's House. It was observ'd, that of twenty Bishops who were that Day in the House, six only were for the Earl of *Oxford*, viz. The Archbishop of *York*, (a) and the Bishops of *London*, (b) *Rocheſter*, (c) *Bristol*, (d) *Cheſter*, (e) and *Durham*. (f)

July 11. The Lords order'd, That the Earl of *Oxford* be brought to the Bar of their House the next Morning, in order to be sent to the Tower.

The

(a) (b) (c) (d) *Vide Antea.* (e) Dr Francis Gastrell.
(f) Lord Crewe.

The next Day the Earl of *Oxford* was, according to Order, brought to the Bar of the House of Lords, where having receiv'd a Copy of the Articles of Impeachment against him, he represented to their Lordships, ' That the ablest Men in the Nation had been many Weeks in drawing up those long Articles against him ; and therefore he hoped the House would allow him a proportionable Time to answer them.' His Lordship took that Occasion to return their Lordships his hearty Thanks for their great Humanity in not sending him to the Tower the *Saturday* before ; and as he still labour'd under the same Indisposition of Body, he humbly desired their Lordships to permit him to continue some few Days more at his own House under the Custody of the Black Rod.' The Earl of *Oxford* being withdrawn to the Black Rod Room, the Lords resolv'd to allow him a Month to answer the Articles of Impeachment ; and as to his last Request, Dr *Mead*, one of his Lordship's Physicians, being consulted, and having made an Affidavit, ' That if the Earl were sent to the Tower, his Life would be in Danger : ' A Motion was made, ' That he might continue in his House till the *Monday* following : ' But this was oppos'd, and after Debate, The Earl of *Oxford* it was carried, by 81 Voices against 55, that he should be carried to the Tower, on the *Saturday* next. In this Day's Debate, the Earl of *Anglesea*, having said, ' That it was to be feared these violent Measures would make the Scepter shake in the King's Hands : ' Several Members were offended at this Suggestion, and some cry'd, *The Tower*, and others only *To Order*. The Earl of *Sutherland* standing up, said, ' He trembled with Indignation to hear such Words pronounc'd in that Noble Assembly ; that if they had been spoke any where else, he would call the Person that spoke them to an Account : ' But all he could do there was to move that he might explain himself. He was seconded by the Duke of *Roxburgh*, who said, ' That the Scepter was so well rivetted in the King's Hand, that instead of shaking, it would crush all his Majesty's Enemies.' The Earl of *Berkeley*, and some other Lords back'd also the Earl of *Sutherland*'s Motion : Whereupon the Earl of *Anglesea* stood up, and said, ' That it was but too manifest, by the Riots that were daily committed in several Parts of the Kingdom, That the Nation, in general, was against these Impeachments ; That for his own Part, he was so far from approving those tumultuous Assemblies and Disorders, that he rather wish'd a Stop might speedily be put to them, by exemplary Punishments ; That he had on several Occasions, given sufficient Proofs of his Zeal and Affection for the Revolution and the Protestant Succession ;

Anno 1. Geo. 1.

1715.



The Earl of *Oxford* voted to the Tower.

Debate concerning some Expressions in the E. of *Anglesea*'s Speech.

E. of *Sutherland*.

D. of *Roxburgh*.

E. of *Berkeley*.

E. of *Anglesea*.

Anno 1. Geo. I. Succession ; That what he had now advanc'd, was the Result of the same Zeal for the Peace and Prosperity of his Majesty's Reign : However, if he had been so unhappy as, by any unguarded or passionate Expression, to give Offence to that august Assembly, he was very sorry for it.* Notwithstanding this Apology, some Members were inclin'd to have his Lordship sent to the Tower, but the very Words he had spoken not having been taken down in Writing, the House admitted his Lordship's Explanation ; and so that Matter went no further. It is observable that on this Occasion, besides the Six Bishops before-mention'd, those of *Bath and Wells*, (a) and *St David's*, (b) voted for the Earl of *Oxford*.

On the 20th of *July*, the Lords resolv'd to present an Address to the King, in Answer to his Majesty's Speech, relating to an Invasion * by the Pretender, which was the same Day drawn up and agreed to, as follows :

Most Gracious Sovereign,
 The Lords Address to the King on Account of the Pretender's Invasion. **W**E your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, beg Leave to return your Majesty the most humble Thanks of this House, for your Majesty's most gracious Assurances, that the Preservation of our excellent Constitution, and the Security of our holy Religion, has been, and always shall be your chief Care ; and for communicating to your Parliament the Advices from Abroad of an intended Invasion of these Kingdoms, countenanced and encouraged by Insurrections here at Home, fomented and stirred up by the Abettors and Supporters of the Pretender's Interest. And we do most humbly assure your Majesty, that this House will stand by and assist your Majesty, at the Hazard of our Lives and Fortunes, in Support and Defence of your Sacred Person, and your undoubted Right and Title to the Crown, in Defiance of all your open and secret Enemies.'

This Address being the next Day presented to the King, his Majesty was pleased to make the following Answer :

My Lords,
 His Majesty's Answer thereto. **I** Thank you for the zealous Affection you express towards me, and the Assurances which you give me in this Address ; and you may depend on my punctually making good all those which I have given to my People, either on this or any former Occasion."

Aug.

(a) Dr George Hooper.

(b) Dr Adam Ottley.

* See the King's Speech in the History and Proceedings of the House of Commons, p. 35.

Aug. 18. A Bill from the * Commons for the Attainder Anno 2. Geo. 1.
of *Henry Viscount Bolingbroke* of High Treason, unless he shall render himself to Justice by a certain Day therein mentioned, was read the third Time ; and the Question being put, that the Bill do pass, it was carried in the Affirmative.

1715.

A Bill of Attainder against Lord Bolingbroke read the 3d Time.

*Dissentient**

I. Because we cannot give our Consent to the affirming, that the Lord to be attainted by this Bill is fled from Justice, being known to have left *England* before he was impeached in Parliament ; nor does it appear to us, that the Lord so impeached has had any Summons to return, or legal Notice, by Proclamation or otherwise, of the Charge brought up against him.

Protest on that Occasion.

II. Because no particular Proofs have been laid before the House of any High Treason, or other High Crimes and Misdemeanors, with which he stands charged ; nor has any Evidence been given to this House of his adhering to the King's Enemies, or being concern'd in any traiterous Design since he left *England*.

III. Because the Time prescribed for his Return is much shorter than what has been allowed to Persons in like Circumstances of supposed Guilt, though of far meaner Condition and Character ; nor do we know or believe, that there is any Instance of any Person whatsoever, who was out of the Kingdom at the Time of his being impeached in Parliament, who has not had a longer Day assigned for his Return, before he was to stand and be adjudg'd attainted, or actually incur any other High Pains and Penalties inflicted by Act of Parliament.

And we think such Allowance of a longer Day, in the Case of Attainders by Parliament, to be much more reasonable, as it is agreeable, not only to Parliamentary Usage, but to the Methods of Common Law, in all Cases of Outlawry, whereby more Months are allowed to the most notorious Traitor (known to be fled from Justice) for his coming in, before his Outlawry can be recorded, than this Act allows Weeks, to the Lord impeached, for his returning before his Attainder takes Place.

Fran. Cestriens', Compton, Strafford, Asburnham, Lansdowne, Scarsdale. Foley, Abington, Weston(a), Clarendon, Willoughby de Broke, Jersey, Batburst, Massam, Fr. Roffen'.

Then the Bill from the * Commons for the Attainder of *James Duke of Ormonde* of High Treason, unless he render himself

1715

C

himself

* See the Debate in that House upon these Bills, p. 26, 7, 8, &c. in Chandler's Edition.

(a) Earl of Arran of Ireland, Brother to the Duke of Ormond.

Anno 2. Geo. I. himself to Justice, by a Day certain therein mentioned, was
 1715. read; and the Question being put, that the Bill do pass, it
 was resolved in the Affirmative by 59 Voices against 23; whereupon the following Lords entered a Protest for the Reasons given against the Bill, *For the Attainder of Henry Viscount Bolingbroke, viz.*

A Protest on passing the Bill of Attainder against the Duke of Ormonde.

Scarsdale, Geo. Bath and Wells, Fran. Cestriens', Bathurst, Masbam, Compton. Foley, Strafford, Lansdowne, Ashburnham, Willoughby de Broke, Fr. Roffen', Abingdon, Weston, Clarendon.

Articles of Impeachment against Thomas Earl of Strafford.

Sept. 1. The Lords receiv'd from the Commons Articles of Impeachment of High Crimes and Misdemeanors against *Thomas Earl of Strafford.*

He complains of the Seizure of his Papers.

These Articles having been read, the Earl of *Strafford* stood up, 'And complain'd of the Hardship that had been put upon him, by seizing * his Papers, in an unprecedented Manner. That he design'd to have drawn up and printed an Account of all his Negotiations, whereby, he did not doubt he should have made it appear to all the World, that he had done nothing but in Discharge of his Duty, and of the Trust reposed in him. That if either in his Letters or Discourses, while he had the Honour to represent the Crown of *Great Britain*, he had dropt any unguarded Expressions against some Foreign Ministers, he hoped the same would not be accounted a Crime by a British House of Peers. Concluding with desiring, that a competent Time be allow'd him to answer the Articles now brought against him; and that he might have Duplicates of all the Papers, that either had been laid before the Committee of Secrecy, or were still in the Hands of the Government, which might be for his Justification.' Hereupon the Lord Viscount *Townshend* said, 'That his Complaint about the taking his Papers from him, was altogether groundless and unjust; That infinite Instances of the like Proceeding might be produced; That no State could be

Debate thereon.

Ld Townshend.

* The King having thought fit to have the Earl of *Strafford's* Papers, relating to his publick Negotiations, laid before the Council, the Lord *Townshend* was sent to his Lordship's House to demand the same. The Earl having made some Difficulty to comply with that Demand, unless he had an Express Order from the Council in Writing, his Lordship was summoned before the Council on the 11th of January; and, after he had been examined, his Majesty was pleased to give Orders accordingly to Lord *Townshend* and General *Stanhope*, the two Secretaries of State, who went immediately to the Earl of *Strafford's* House, and received from him two Trunks, said, by him, to contain what was required. At the same Time Orders went sent for sealing up his Lordship's Papers that were yet on Ship-board, or at the Custom-house coming from *Holland*.

be safe without it ; and, in short, that extraordinary Cases justify extraordinary Methods. That as to the Earl of *Strafford's* Demand, to have Duplicates of all the Papers that had been laid before the Commons, he thought it unreasonable, and made with no other Design than to gain Time ; and make the Commons lose the Opportunity of bringing him to his Trial : That those Papers were so voluminous, consisting of 13 or 14 Volumes in *Folio*, that they could not be copied out in many Weeks ; and as the Earl might have had Access to them, ever since they were laid before the Parliament, so he was still at Liberty to peruse them, and extract out of them what he thought proper for his own Defence.* The Duke of *Devonshire* and the Lord *Cowper* back'd the Lord *Townshend* ; and, on the contrary, the Lord *Harcourt*, and the Bishop of *Rochester*, spoke for the Earl of *Strafford* : But the Earl of *Ilay* represented, ' That, in all civilized Nations, all Courts of Judicature, except the Inquisition, allow'd the Persons arraign'd all that was necessary for their Justification ; and that the House of Peers of *Great Britain* ought not, in this Case, to do any Thing contrary to that Honour and Equity, for which they are so justly renowned through all *Europe*.' Hereupon it was resolv'd, That the Earl of *Strafford* should have Copies of all such Papers as were in the Secretary's, and other Offices, which he should think proper for his Defence ; that he should have free Access to the Papers that had been laid before the Commons ; and that a Month's Time be allow'd him, to answer the Articles of Impeachment against him.

Anno 2. Geo. I.
1715.

D. of Devonshire
Ld Cowper.
Ld Harcourt.
Bp of Rochester.
Earl of Ilay.

On the 3d of *September*, the Earl of *Oxford* caused his Answer * to the Commons Articles of Impeachment, to be deliver'd to the House of Lords ; which is too tedious to be here inserted.

Earl of Oxford
puts in his Answer to the Articles of Impeachment.

September 21, The Lord Chancellor, by the King's Command, directed both Houses to adjourn to the 6th of *October*. They were then adjourned for a Fortnight, and afterwards to the 5th of *November*, and thence, by several Adjournments, farther to the 9th of *January*.

The Parliament meet, after an Adjournment of near four Months.

Accordingly that Day both Houses met, and the King having made a Speech on occasion of the Rebellion, the Duke of *Newcastle* moved for an Address to his Majesty ; and being seconded by the Earl of *Dorset*, it was unanimously resolv'd to present the following Address.

1715.

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Most

* The Reader may find the Earl's Answer at large in the Political Stage, the Historical Registers, or the State Trials.

Anno 2. Geo. I.
1715-16.

Address of
Thanks to the
King for his
Speech on 'ac-
count of the Re-
bellion.

Most Gracious Sovereign,

WE your Majesty's most Dutiful and Loyal Subjects, the Lords Spiritual and Temporal, in Parliament assembled, do return our most unfeigned Thanks to your Majesty, for your most gracious Speech from the Throne, and do, with great Joy, lay hold of this Opportunity, to congratulate your Majesty on the Successes, with which it has pleased Almighty God to bless your Majesty's Arms and Counsels against the Rebels.

We are so truly sensible of the Happiness, which the Nation enjoys under your Majesty's Government, that we should be wanting to our own Interest, as well as to the Duty we owe to your Majesty, did we not exert ourselves with the utmost Spirit and Vigour in the present Time of Danger, to the Confusion of all such as are either Actors or Abettors, in the present wicked and unnatural Rebellion, and to the Reproach of those, who affect to appear lukewarm or indifferent, in the Cause of their King and Country.

Our Satisfaction in observing the just and wise Use of that Power, with which the Parliament entrusted your Majesty in this great Conjuncture, can be equall'd by nothing, but our Joy for those remarkable Successes, which have been the natural Consequences of it.

We cannot sufficiently praise the Fidelity and Bravery which your Army hath shewn on this Occasion, and assure ourselves, that all your faithful Subjects, who are influenced by the same Principles of Honour and Duty, will be as active in their several Stations, to promote the Service of your Majesty, and the Safety of the Publick.

The Landing of the *Pretender* in *Scotland*, will only serve to animate this our Zeal for your Majesty, and we doubt not but it will prove his last Effort for disturbing the Peace of your Majesty's Reign.

We are highly sensible of the Security and Honour, which redounds to the Nation, by the Treaty for settling the Barrier in the Netherlands under your Majesty's Guaranty; and of the Advantages which will accrue to your Subjects by a Treaty of Commerce with Spain, and by the Negotiations which are now on Foot, for renewing of all Alliances with the ancient and faithful Friends of this Kingdom, the States General.

It is with equal Pleasure and Astonishment, that we see your Majesty has been able, in a Time of intestine Troubles, to recover, in a great Measure, the Reputation and Commerce of the *British* Nation, and that you have gained more advantageous Terms of Trade for your Subjects, than what were procured by any of your Roy-
al

al Predecessors, who had so much fairer Opportunities of Anno 2. Geo. I.
demanding them.

1715-16.

‘ We want Words to express our Gratitude to your Majesty for your Gracious and Unparalleld Resolution, to give up all the Estates, that shall become forfeited by the Rebellion, to the Use of the Publick; and promise ourselves that all your faithful Subjects, will, with great Cheerfulness, do their Part towards enabling you to restore and secure the Peace of the Kingdom, to which your Majesty contributes in so generous a Manner, out of the Profits inherent to your Crown and Royal Dignity.

‘ That endearing Tenderness and Clemency, which your Majesty expresses towards all your Subjects, very much aggravates the Guilt of those, who have taken up Arms, against so good and gracious a Sovereign; and we cannot think, without the utmost Horror, of those who rebel against a Prince of so much Goodness, or spread Falshoods and Calumnies against your sacred Person, at the same Time that you are studying to advance their Welfare and Happiness,

‘ We cannot desire a greater Instance of this your Majesty’s Affection to your People, than the Sense which your Majesty expresses of those, whose Evil Counsels, laid the Foundation of all our Mischiefs, and whose Self-interested Views, have deluded such Numbers of unwary Men into their own Destruction.

‘ We heartily pray Almighty God, that he may grant your Majesty a long and happy Reign over us, and bless your Endeavours with Success, for the procuring of a firm and lasting Establishment of our excellent Constitution in Church and State. And as we shall always oppose the Attempts of such Men, as would subject the Nation to the Revenge and Tyranny of a Popish Pretender; so we shall always value, beyond any Honours or Titles we can enjoy, the Character of being faithful Subjects to your Majesty, zealous Asserters of the Liberties of our Country, the present Establishment, and the Protestant Religion.’

January 11. The King return’d the following Answer thereto.

My Lords,

“ I Thank you heartily for this dutiful and loyal Address. The King’s
“ I depend entirely upon the Assurances you give me; Answer.
“ and shall ever steadily pursue such Measures, as may best
“ support the Constitution in Church and State; and I doubt
“ not but, by the Blessing of God, and your Assistance, I
“ shall defeat the Designs of our Enemies.”

Anno 2. Geo. I.
1715-16.

The Earl of
Strafford puts in
his Answer to
the Articles of
Impeachment.

Debate on a
Clause propos'd
to be added to
the Bill for sus-
pending the Ha-
beas Corpus Act.

Lord Harcourt.

Lord Trevor.
D. of Bucking-
ham.

E. of Abingdon.

Protest on re-
jecting the said
Clause.

On the 17th of *January* the Lords sent a Message to the Commons, to acquaint them, that the Earl of *Strafford* had put in his Answer to the Articles of Impeachment exhibited against him, and commanded their Messengers to leave a Copy thereof with the Commons.

On the 21st the Lords, in a Committee of the whole House, took into Consideration the Bill from the Commons * *For continuing the Act to empower his Majesty to secure and detain suspected Persons, &c.* and Lord Harcourt proposed a Clause, *For assigning the Reason of the Commitment; and for punishing Informers in case they accuse innocent Persons; as also, for excepting the Peers out of this Act:* He was back'd by Lord Trevor, the Duke of Buckingham, and the Earl of Abingdon, but the Question being put thereupon, it was carried in the Negative by 64 Voices against 14: After which the Bill was read the Third Time, and pass'd without Amendment. Hereupon the following Protest was enter'd.

Dissentient

I. Because some Provisions, which, in former Bills of this Nature, were thought necessary to prevent unjust Imprisonment, are omitted in this.

II. Because the Manner of continuing the Suspension, by Reference only, deprived this House of the Opportunity freely to debate the several Parts of the Act so continued.

III. Because by this Bill the Liberty of the Subject is in greater Danger, than if the Act suspended were totally repealed.

IV. Because no Provision is made in this Act for restraining the extravagant Execution of the Power given to Ministers, who are, like other Men, subject to Passion and Revenge, at whose Will and Pleasure the most dutiful and loyal Subjects may be deprived of their Liberty, and all Conversation with their best Friends and dearest Relations; which may tend to alienate from his Majesty their Affections, the best Security against Invasions from abroad or Rebellion at home.

V. Because, though it may be necessary, in this Time of Danger, to continue the Suspension of the said Act, with proper Provisions, yet not for so long a Time as is proposed by this Bill, while the Parliament is like to continue sitting.

VI. Because the antient Rights and Privileges of Parliament, particularly for preventing the Imprisonment of Members of both Houses, are not by this Act sufficiently provided for, which may intimidate the Members from using
Freedom

* See the Account of the same Motion by Mr Shippen in Chandler's History of the Commons, Anno 1715-16. Page 62.

Freedom of Speech in Parliament, so necessary for advising Anno 2. Geo. I.
his Majesty, and for restraining the exorbitant Power of e- 1715-16.
vil Ministers.

Abingdon.

The same Day the King went to the House, and the Com- The Bill for con-
mons attending, his Majesty gave the Royal Assent to the tinuing the Sus-
said Bill: After which his Majesty, in a Speech to both pension of the
Houses, inform'd them, That the Pretender was landed in *Habeas Corpus*
Scotland: That he was heading the Rebellion there, and as- Act, receives the
sum'd the Stile and Title of King of these Realms; And Royal Assent.
that his Adherents confidently affirm'd that Assurances were
given them of Support from Abroad.

The King being retir'd, the Lords order'd, That an
humble Address be presented to his Majesty on this Occasion;
And a Committee being appointed, the Address was the
same Day reported, read, and agreed to; and, on the 23d
the House waited on his Majesty with the said Address,
as follows:

Most Gracious Sovereign,

WE your Majesty's most Dutiful and Loyal Subjects, The Lords
the Lords Spiritual and Temporal in Parliament Address to the
assembled, beg Leave to assure your Majesty, that the King upon Oc-
Landing of the Pretender in this Kingdom, hath increased casion of the
our Indignation against him and his Adherents; and that Pretender's
we are fully convinced that it is not only requisite for the heading the Re-
Security, but also for the future Ease and Interest of your bellion in Scot-
Majesty's Subjects, to exert themselves on this Occasion land.
in a more than ordinary Manner, to put a speedy End to
these present Disorders, and to prevent those Calamities
which must attend a ling'ring Rebellion within the King-
dom, and to discourage its being supported by any Assis-
tance from Abroad: And that we will to the utmost of our
Power, assist your Majesty, not only in subduing the pre-
sent Rebellion, but in destroying the Seeds and Causes of
it, that the like Disturbance may never rise again to im-
pair the Blessings of your Majesty's Reign.

To this his Majesty return'd the following Answer:

My Lords,

THIS Address is a fresh Instance of your Duty and His Majesty's
Affection to my Person and Government, and of Answer,
your just and tender Concern for the Safety of my People:
The Vigour and Resolution you express on this Occasion
will, I hope, contribute very much to the putting a speedy
and effectual End to this Rebellion."

On

Anno 2. Geo. I.
1715-16.

Application
made to the
House of Lords
in favour of the
E. of Derwent-
water, Ld Widd-
rington, E. of
Nithisdale, E. of
Carnwath, Lord
Kenmaure and
Ld Nairn, under
Sentence of
Death on ac-
count of the Re-
bellion.

Debate thereon.
D. of Richmond.
E. of Derby.

Ld Townshend.
E. of Notting-
ham.

E. of Stamford.

An Address vot-
ed in their Be-
half.

On the 9th of *February* the Lord *Cowper*, Lord High Chancellor, came in State to the House of Peers, being appointed by the King, Lord High Steward of Great Britain, to pass Sentence of Death upon the six Lords, viz. The Earl of *Derwentwater*, Lord *Widdrington*, Earl of *Nithisdale*, Earl of *Carnwath*, Viscount *Kenmaure* and Lord *Nairn*, who being engaged in the Rebellion, had pleaded *Guilty* at the Bar of the House some Time before.

Great Intercessions were made with his Majesty, and to both Houses of Parliament in their Lordships Behalf; in-
somuch that on the 22d of *February* the Duke of *Richmond* a near Relation of the Earl of *Derwentwater*, and one of the Lords allow'd by the House to assist him, could not re-
fuse presenting a Petition in his Favour; but, at the same Time, his Grace declared, that he would be against it. The Earl of *Derby*, out of Commiseration for the nume-
rous Family of the Lord *Nairn*, charged himself with a Petition in his Behalf; as other Lords did, with other Petitions. The Question being put whether the same should
be received and read, there arose a great Debate, in which the Lord *Townshend*, and several other Lords, maintain'd the Negative; but the Earl of * *Nottingham* declaring for the Affirmative, the Question was carried by 9 Voices.

After the reading of the Petitions, the next Question was, whether, in Case of an Impeachment, the King has Power to reprieve? Which being carried in the Affirmative; the same was followed by a Motion, That an Address be presented to his Majesty, humbly to desire him to grant a Reprieve to the Lords that lay under Sentence of Death. This was opposed by several Lords; and even an Earl, who had been for the first two Questions, represented, 'That tho' Clemency was one of the brightest Virtues that adorn and support a Crown, yet, in his Opinion, the same should be exercised with Discretion, and only on proper Objects; and therefore moved, that they should address his Majesty to reprieve such of the condemn'd Lords, as should deserve his Mercy:' Which, after some farther Debate, was carried. Then the Earl of *Stamford* moved, That the Time of the Respite be left to his Majesty's Wisdom and Discretion, which was readily agreed to; and then the Question being put, That the said Address, so amended, be presented to his Majesty, the same was carried in the Affirmative, by a Majority of Five

* Remov'd from his Place of Lord President of the Council on the 28th of this Month; as was his Son the Lord Finch from being one of the Lords of the Treasury; his Brother the Earl of Aylesford, from his Post of Chancellor of the Duchy of Lancaster; and the Lord Guernsey his Nephew, from being Master of the Jewel Office,

Five Voices. The Lords with White Staves having the same Evening waited on the King with that Address. his Majesty was pleased to answer, *That on this, and other Occasions, he would do what he thought most consistent with the Dignity of his Crown, and the Safety of his People.* Anno 1. Geo. I.
1715-16.
The King's Answer to it.

On the 23d the Earl of *Nithisdale* made his Escape out of the Tower in a Riding-Hood and Womans-Apparel: The next Morning the Earl of *Derwentwater* and Lord *Kenmore* were beheaded. But the Lord *Widdrington*, the Earl of *Carnwath*, and Lord *Nairn*, were repriev'd; and afterwards received his Majesty's most gracious Pardon. The Fate of the seven impeach'd Lords.

The Earl of *Winton*, who was also engag'd in the Rebellion, was to have been tried on the 16th of *February*; but upon a Petition for a Delay, that his Witnesses might come up, it was deferr'd till the 15th of *March*, when his Lordship was, after a Trial which lasted two Days, convicted of High Treason, received Sentence of Death, and sent back to the Tower; from whence, on the 4th of *August* following he made his Escape.

February 11th, the Lords having read a second Time the Land-Tax Bill, and referred it to a Committee of the whole House; some Peers were offended at the * Preamble: And the Earl of *Abingdon* thereupon mov'd, That all the Peers in Town might be summoned to attend that Committee, which was done accordingly. A Debate concerning the Land-Tax Bill.
E. of Abingdon.

February

* The said Preamble is as follows:

We your Majesty's most dutiful and loyal Subjects, the Commons of Great Britain in Parliament assembled, having Hearts filled with the utmost Gratitude to your Majesty, for the tender Concern your Majesty, on all Occasions, expresses for the extraordinary Burthen this unnatural Rebellion makes necessary to be laid on your faithful Subjects, for preserving all their Rights, both sacred and civil; and for your Majesty's unprecedented Goodness, in giving up all such Estates for the Use of the Publick, and in Ease of your People, as shall be forfeited by this Rebellion; the raising, or the dreadful Consequences whereof cannot, by the most implacable of your Majesty's Enemies, be ascribed to any one Act done by your Majesty since your happy Accession to the Throne of your Ancestors; but even, they will allow, that all the Mischiefs, Burthens, and Calamities which shall attend this horrid Rebellion, are, in Truth, owing to the fatal and pernicious Counsels given by some Persons in the late Male-Administration, when, under Pretence of procuring Peace Abroad, the present destructive War was projected to be brought into the very Bowels of our native Country at Home, when a Popish Army, (Part of which God has delivered into your Hands) was designed to be the Protector of our holy Religion; and when under the false Colour of paying the publick Debts, tho' their true Design was to deliver us bound into the Power of the ancient Enemy of these Kingdoms; the same evil Counsellors contrived unnecessarily to incur, for a long Time to come, (if not for ever) several considerable Branches of the publick Revenues, which, for many Years past, had, from Time to Time, been useful to support the publick Expence; which Revenues, in former Administrations, had been carefully reserved for that Purpose, to the End, that upon the Conclusion of an hap-

Anno 2. Geo. I.
1715-16.

A Committee
appointed to in-
quire into the
Right of the
Lords to alter a
Money-Bill.

A Protest entered
thereupon by Or-
der of the House.

Debate in the
House of Lords
about a Bill for
the speedy Trial
of the Rebels.
Ed Trevor.

Ld Cowper.

February 13, the Lord *Harcourt* went early to the House of Peers, and caused the Journals to be searched for Precedents of Amendments made by the Lords to a Money-Bill: But few, if any, could be found, at least since the Restoration in the Year 1660, from which Time the Commons would never suffer the Lords to make Alterations in Bills of that Nature. When the grand Committee was sat, several Lords spoke against the Preamble in Question, as prejudging Matters of a very high and important Nature, the Cognizance and Determination of which properly belong'd to the House of Peers. The Courtiers were sensible that this Objection was well grounded; but being unwilling, on the other Hand, to put a Stop to the Bill at this critical Juncture, an Expedient was proposed, and admitted, *viz.* That they should enter in their Journal a Kind of Protest or Declaration, importing in Substance, 'That tho' the said Preamble was derogatory to the Privileges and Authority of the House of Lords, yet their Lordships, in Consideration of the King's and the Nation's Service, in this dangerous Conjunction, were willing to give their Concurrence to the said Bill, without Amendments; but that the same should not be drawn into a Precedent for the Time to come, or construed to be any Diminution of the judicial Authority of the House of Lords.' The Lord *Cowper*, and the Lord *Harcourt* were appointed to draw up the said Protest or Declaration, which was enter'd in the Journals of the House.

On the 18th of *February*, the Lords read a first and second Time a Bill from the Commons, *For the more easy and speedy Trial of the Rebels*; and the Question being put, that the said Bill be committed to a Committee of the whole House, it occasion'd a Debate. The Lord *Trevor* urg'd, that the Bill in Question was against *Magna Charta*, and the ancient Rights of the Nation. But the Lord *Cowper* clear'd all the Objections that were started; shew'd the Necessity of such a Law, at this dangerous Juncture; and being supported by all the Courtiers, the Question was carried in the Affirmative by 60 Voices against 20.

Feb. 20. The Lords waited on the King with the following Address, on account of his Majesty's Speech relating to the Pretender's Flight out of *Scotland*.

Maj

'py Peace, which we had then Reason to expect, the Subjects of these Realms might have reap'd the Fruits of a successful, tho' expensive War. And we your Majesty's said dutiful and loyal Subjects being fully resolved to maintain your Majesty's just Title to the Imperial Crown of these Realms, against all Enemies and Traitors whatsoever; and for that End purpose to raise such Supplies as are necessary to defray your Majesty's publick Expences, have cheerfully and unanimously given and granted, &c.

*Most gracious Sovereign,*Anno 2. Geo. I.
1715-16.

W E Your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, beg Leave to return your Majesty the Thanks of this House for your most gracious Speech from the Throne, and to congratulate your Majesty upon the Success your Forces have had, in obliging the Pretender to fly out of *Scotland*; and as we do not doubt but your Majesty will use the most effectual Means towards preventing the said Pretender's finding Refuge or Protection in any Country in Amity with your Majesty, so we do assure your Majesty of our utmost Support and Assistance in shewing your just Resentment against any Prince, or State that shall give him Protection; and we take this Opportunity to express the true Sense this House has of your Majesty's great Wisdom and Care of your People, in having resolved not only to put a speedy but an effectual End to this Rebellion, without having hearken'd to any fallacious Proposals of the Rebels; which could only have tended to leave the Seeds of future Rebellions and Distractions in this Kingdom.

'And we do farther humbly thank your Majesty for your gracious Intention to ease your People of any Burthen, as far as is consistent with the publick Safety, not doubting but, if your Majesty judges it necessary, you will make Use of the Power already granted you; and we do humbly assure your Majesty, that nothing shall be wanting on our Part towards securing, upon the most solid and lasting Foundations, your Majesty's Government, upon which the future Happiness and Tranquility of these Kingdoms does entirely depend.'

To which the King return'd the following Answer:

My Lords,

I Thank you heartily for this Dutiful and-Loyal Address. His Majesty's Answer.
I will immediately order the most pressing Instances to be made to all the Princes and States in Amity with me, in Relation to the Pretender; and I shall, in every Thing always consult the Security and Happiness of my People."

On the 10th of *April*, the Duke of *Devonshire* made a Duke of Devonshire's Motion Speech in the House, representing the Inconveniences that attend the triennial Elections of Members of Parliament; particularly, that they serve only to keep up Party-Divisions, and to raise and foment Feuds and Animosities in private Families: That besides, they occasion ruinous Expences, and give a Handle to the Cabals and Intrigues of foreign Princes: That therefore it was becoming of the Wisdom of that august Assembly, to apply a proper Remedy to an Evil

Anno 2. Geo. 1.
1716.

Debate thereon.

E. of Rockingham.
D. of Argyle.
E. of Dorset.
Ld Townshend.
D. of Buckingham.
Ld Trevor.
E. of Nottingham.
E. of Aylesford.

which might be attended with the most dangerous Consequences, especially in the present Temper of the Nation ; for tho' the Rebellion was happily suppress'd, yet the Spirit of it remain'd unconquer'd, and seem'd only to wait for an Opportunity to shew itself with more Violence : That the Election of a new Parliament, which by the Triennial Act was not far off, being the most favourable Juncture which the Disaffected could expect, he thought it absolutely necessary to deprive them of it : For which Purpose, he had a Bill * to offer to the House, for enlarging the Continuance of Parliaments ; and at the same Time he mov'd it might be read. He was seconded by the Earl of *Rockingham*, and back'd by the Duke of *Argyle*, the Earl of *Dorset*, and Lord *Townshend*. The Duke of *Buckingham*, the Lord *Trevor*, the Earls of *Nottingham* and *Aylesford*, and several other Peers, tho' they did not directly oppose the Bill, yet were for putting off the Reading of it to another Time : They did not deny, but that every Member of that House had the Privilege of offering what Bill he thought fit ; but that the House was likewise at Liberty either to read it or not ; as they thought convenient ; and that the Matter propos'd, was of so high a Nature, that it well deserv'd to be maturely weigh'd and consider'd, before there were any Debates upon it ; and therefore they mov'd that the Bill might lie some Days upon the Table, before the first Reading. The Lords who were for reading it presently, answer'd them, That it was far from their Thoughts to offer at the carrying any Thing by Surprise : That by the ordinary Method of Proceeding, every Member had a sufficient Time to weigh and consider what was offer'd to the House. Then the Earl of *Dorset* propos'd, That after the Bill had been once read, the second Reading should be put off to the *Saturday* following ; to which the whole House agreed.

This

* After reciting the Act, 6th William and Mary, for making Parliaments Triennial, the Preamble of the Bill goes on thus, ' And whereas, ' it hath been found by Experience, that the said Clause hath proved very grievous and burthenfome, by occasioning much greater and more continued Expences, in order to Elections of Members to serve in Parliament, and more violent and lasting Heats and Animosities among the Subjects of this Realm, than were ever known before the said Clause was enacted ; and the said Provision, if it should continue, may probably, at this Juncture, when a restless and Popish Faction are designing and endeavouring to renew the Rebellion within this Kingdom, and an Invasion from Abroad, be destructive to the Peace and Security of the Government: Be it Enacted, That this present Parliament, and all Parliaments that shall at any Time hereafter be called, assembled or held, shall and may respectively have Continuance for ——— Years, and no longer, to be accounted from the Day on which, by the Writ of Summons, this present Parliament hath been, or any future Parliaments shall be appointed to meet, unless this present, or any such Parliament hereafter to be summoned, shall be sooner dissolved by his Majesty, his Heirs or Successors,

This Bill being, according to Order, read a second Time Anno 2. Geo. I.
1716.
on the 14th of April, the Lord Cowper put the Question, Ld Cowper.
E. of Abington.
Whether it should be committed? Upon which, there arose
a warm Debate. The Earl of *Abington* who spoke first
against the Bill, said, 'That it was of a very extraordinary
Nature, since it repeal'd the Triennial Act, which the Peo-
ple justly look'd upon as the great Security of their Rights
and Liberties; and that if it pass'd this House, and the
Commons agreed to it, it would, on their Part, be a Breach
of that Trust which was repos'd in them by those whom
they represented.' The latter Part of this Assertion was
deny'd by the Duke of *Kingston*, who urg'd, 'That the D. of Kingston.
Business of the Legislature was to rectify old Laws, as well
as to make new ones.' The Earl *Poulet* spoke next against E. Poulet.
the Bill, and declar'd, 'That he would have been for it,
if he thought it for the King's Service and Interest; but
that before they went any farther in so important an Affair,
some Method should be us'd to know the Sentiments of the
Nation. His Lordship urg'd, That this Bill shew'd a Dis-
trust of the Affections of the People, without which, no
King can be either safe or easy: That King *William* gain'd
the Hearts of his Subjects by the Triennial Act; and it
would look somewhat strange, that the most popular of our
Laws should be repeal'd a Year after the Protestant Suc-
cession took Place. After this, he endeavour'd to answer
what was suggested in Support of this Bill, viz. 1st, That
frequent Elections occasion ruinous Expences; 2dly, That
they raise a great Ferment, and foment Animosities, which
are of the most dangerous Consequence after the late Re-
bellion; and 3dly, That they obstruct Foreign Alliances.
He said, That no Stress ought to be laid on the first of those
Objections, Expences at Elections being voluntary: That as
to the second, He was sorry there had been a Rebellion,
but that now it was happily suppress'd: And as to the third
Suggestion, That that was of no Weight with him, it being
his Opinion, that in a Matter which so nearly concerns our
Constitution, we ought to have Regard to our selves only,
and not to Foreigners; upon all which Considerations, he
was against the committing of this Bill.'

The Earl of *Dorset* said, 'That they who now spoke E. of Dorset.
against this Bill, would be for it, if it serv'd their Turn:
That the Triennial Act was a new Law, and an Alteration
of the old Constitution: That the Experience of twenty
Years having shewn a Thousand Inconveniencies that attend
that Law, they ought to apply a Remedy to it: That the
said Law sow'd the Seeds of Corruption, it being notorious,
that great Numbers of Persons had no other Livelihood,
than by being employ'd in bribing Corporations: That we
had

Anno 2. Geo. I. had lately made a sad Experience of it, since, by those Methods, a Parliament was procur'd by the last Ministry, which gave Sanction to most of their ill Measures, and went near to give up the Trade and Liberties of the Nation : That Triennial Elections destroy all Family Interest, and subject our excellent Constitution to the Caprice of the Multitude ; and, in short, that by Triennial Elections, we have but a Triennial Government, which is little better than no Government at all : For which Reasons he was for this Bill.'

Ed Trevor.

The Lord Trevor declar'd, ' That he had no manner of Prejudice to those who brought in the Bill : That, on the contrary, he had all the Honour and Respect for that noble Peer who offer'd it to the House ; being satisfy'd, that he thought it to be for the Interest of his King and Country : That as for his own Part, all he aim'd at, was, the Preservation of our excellent Constitution, and that the Crown might sit easy on the King's Head, and be for ever secur'd to his Royal Family, for whom he profess'd the sincerest Affection : That the Question now lying before them, was, Whether the Law they were going to make, tended to the Good or Prejudice of the Constitution ? That he himself look'd upon the Triennial Act as an essential Part of our ancient Constitution, according to which, frequent and even annual Parliaments were to be held : That he could easily prove, that long Parliaments were always pernicious : That when King *Charles. I* had given up his Prerogative of dissolving Parliaments, in 1640, he gave himself up into the Hands of Traytors, and had nothing but Destruction to expect from them : That after the Restoration, King *Charles II.* found the Inconveniencies of a long Parliament : That as soon as the Nation had Opportunity, by the Revolution, to assert their just Rights and Liberties, the Triennial Act was insisted on, and gain'd, at last, with a great deal of Opposition : That there were very good and cogent Reasons for making this Law, *viz.* To support the Constitution ; to prevent Encroachments, either of Parliaments on the Crown, or of the Crown on the Rights and Liberties of the People ; and to correct Abuses and Exorbitances committed thro' the Ambition and Avarice of Ministers : That he would not be thought to reflect on the present Administration ; but that in his Opinion, frequent Elections were a necessary Right of the Subject to remedy Abuses : That for his own Part, he had ever been against the Bill for limiting the Number of Officers in the House of Commons ; but if the Triennial Act were repeal'd, he thought that Bill would become very necessary, because the long sitting of Parliaments would give the Crown both an Opportunity and Temptation to multiply the Number of Officers : That

some

some Reflections had been cast on the last Parliament ; but that, in his Opinion, that Parliament was chosen by the same Method as the present was, *viz.* by great Expences : That he own'd this to be a great Abuse ; but that Laws might be made to rectify the same : That if this Bill pass'd, how could any Member of the other House expect to preserve his Interest with those who chose him, when this Bill would certainly be interpreted both a Violation of their Right, and a Breach of the Trust repos'd in him ? That if this House of Commons continu'd themselves beyond the Time for which they were chosen, they were no more the Representatives of the People, but a House of their own making : That he was sorry there were Discontents in the Country ; but that he apprehended this Bill would rather increase than abate them. He own'd, that the Majority of this House of Commons were honest Gentlemen, who had the Interest of their King and Country at Heart ; but that, in his Opinion, those who went before them, did not come short of them in Point of Duty and Affection to his Majesty ; for 'twas they who establish'd the King on his Throne, and settled his Revenue with all the Cheerfulness imaginable. Concluding, That what he had suggested, flow'd from the Dread of the ill Consequences of this Bill, which might rise to such a Height, as to render the Crown uneasy to his Majesty ; and that he ow'd so much to the Protestant Succession, that if he could believe this Bill to be of any Service to the King and his Royal Family, he would be entirely for it ; but that as he was of a quite contrary Opinion ; he would not have a Bill, obtain'd in the best of Reigns, repeal'd in the first Year of this Protestant Reign ; and therefore he was against committing it.

The Lord Carteret spoke next, and own'd, ' That frequent Parliaments are a great Security to the Peoples Rights and Liberties ; but then he observ'd, That this Bill was not against frequent Sessions, but only against frequent Elections ; That they ought maturely to weigh and consider what was suggested in the Preamble to this Bill, *viz.* That there's a restless Popish Faction designing and endeavouring to renew the Rebellion within this Kingdom. To this Purpose, his Lordship observ'd, That of all Rebellions, this last was the most monstrous and unnatural ; for all other Rebellions were carry'd on under Pretences of Liberty, whereas this last was a Rebellion for Slavery : That as to our Allies Abroad, tho' he could not say, that they expected this Bill, yet it was reasonable to suppose that they would be glad to see it pass into a Law ; for having found, by sad Experience, that great Changes may be made in the best concerted Measures, by different Parliaments, influenc'd by different Mi-

Ld Carteret.

Anno 2. Geo. I.
1716.

nistries; so, if they had not some Security for the Treaties his Majesty was now entering into with them, a strong Tide might come, upon a new Election, that might overturn all: That, in short, this Bill would fix the King, and the present happy Settlement, on a lasting Foundation; and therefore he was for committing it.

D. of Bucking-
ham.

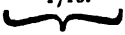
After this, the Duke of *Buckingham* stood up, and declared, 'That he would not be against this Bill; if he thought it for the King's Interest and Service; but that he was afraid the Crown would be the worse for it: That the Triennial Act might, indeed, be subject to some Inconveniencies; but that the best Things are not exempt from them; That Means should be found out, and pursued, to remedy those Inconveniencies; but instead of that, they now were going to repeal a good Law, and alter the Constitution, 'Pray, my Lords, said his Grace, consider what you are doing! Why, to prevent robbing on the Highway, you forbid Travelling. — If a Man breaks his Leg, shall a Surgeon tell him he must be flux'd, and alter his Constitution?' He own'd, That there was a great Ferment in the Nation, and he was very sorry for it; but that he thought this Bill a very improper Remedy for it. And he remember'd it had been said in their House, That it would never be well in *England*, 'till there were Annual Parliaments: That King *William*, who was a wise Prince, made himself and his People easy by the Triennial Act: And he was afraid the Bill now in question, would have a quite contrary Effect; and therefore he was against it at this Time, whatever he might be at another Juncture: That, in his Opinion, the late Rebellion was not a sufficient Reason for repealing the Triennial Act: That the Rebels were rash, inconsiderate Men, who either had, or were to pay dear for their Rashness and Folly; but that both they and their Friends were inconsiderable: That they, perhaps, might whisper Discontent and Treason in Corners; but that, he hop'd, it was not, nor ever would be in their Power to do Harm.' So that, upon the whole Matter, he was against the Bill.

E. of Cholmon-
deley.

Hereupon the Earl of *Cholmondeley* said, 'That he did not design to compliment any one in Power either now or in Time to come, but that he would freely speak his Sentiments, according to the Dictates of his Reason and Conscience: That he made no doubt, but that the Legislature is vested with a supreme Power to rectify any Inconveniencies to which any former Law may, by Experience, be found to be subject; and this being the Case of the Triennial Act, they ought to remedy the same: That what had been suggested in relation to the long Parliament in King

Charles the II^d's Reign, was, in his Opinion, rather an Argument for, than against this Bill: For though, in that Parliament, the King had many Pensioners, who, at first, complimented him with Money, yet, at last, when the Interest of the Nation came to be at Stake, they voted for a War with *France*, and prosecuted the *Papist* Plot with the utmost Vigour: That they had lately seen what a corrupt Parliament may do; and by what Means such a Parliament may be got: And every one might guess how there came to be a Debt of 500,000 l. upon the Civil List: That he did not mention this to irritate against Persons, but against Things: That, in his Opinion, there was no better Remedy against Corruption, than the suppressing frequent Elections; which, on the other Hand, occasion lasting Feuds and Animosities in Families: That he thought this Bill the more necessary, because our Allies will thereby have a Security, that they shall not again be left in the Lurch: And; That in Consideration of the great Benefits that will accrue from it, both at Home and Abroad, he was for committing it.* He was answer'd by Lord *Ferrers*, who prin-
 Anno 4. Geo. 1.
 1716.

To this the Duke of *Newcastle* answer'd, 'That it had
 already been rightly observ'd, that though the long Parliament of King *Charles II.* at first complimented that Prince, yet they afterwards vigorously oppos'd destructive Measures, and insisted on a War with *France*. Then passing over less material Objections, he urg'd, That the present happy Settlement could not be maintain'd, without taking away the Seeds of Corruption: That no Cause ever miscarry'd in so many Instances as that of the Rebels; but that notwithstanding their Defeat at *Presston* and *Dumblain*; their being driven out of *Scotland*, with their King at their Head; their Disappointments in other Parts; and the Execution of some of their Leaders; the *Jacobites* were as insolent as ever: That this was the Reason why, in a late Debate in this House, he was against Lenity; and the rather, because no Prince was ever more naturally inclin'd to Mercy, than his present Majesty; for no Prince ever had so many Rebels in his Power, and never were so few punish'd. My Lords, said he, you must now strengthen your selves, and

Anno 2. Geo. I. 1716.  disarm your Enemies. It is not to be doubted, but the late unnatural and monstrous Rebellion was rais'd and fomented by large Contributions of a restless *Popish* Faction : The same Means, my Lords, will be us'd to renew the Rebellion, as soon as a proper Opportunity offers. Their Emissaries are busy every where to keep up the Spirits of the People for a Year longer, and then they hope to retrieve all by a new Election.' He concluded, ' That though the Allies would not make any Thing done among us an Article of their Treaties, yet having the sad Experience of being left in the Lurch; they would certainly enter into Alliances with us with more Confidence, if they saw that our Government was not precarious : Upon all which Considerations, he declar'd himself for the Bill.'

E. of Aylesford. The Earl of *Aylesford* standing up next, profess'd, in the first Place, ' That he did not entertain the least Prejudice against this Bill on Account of those who brought it in ; for when Matters of so great Importance came under Deliberation, he had no Manner of Regard to any Denomination of Parties ; that he had so great an Affection for his Majesty, that if he thought it to be anywise for his Majesty's Service, he would readily be for it ; but that, in his Opinion, this Bill was not for the Service either of the King or Country, whose Interests he look'd upon as inseparable.' He urg'd, among other Things, ' That it was objected against the Triennial Act, that frequent Elections occasion ruinous Expences, and create Feuds and Animosities ; but that these Objections were not of sufficient Weight with him, to induce him to give his Vote for repealing so good a Law ; that it could not be denied, that a great deal of Money is expended in Elections, but the Candidates may chuse whether they will spend any or no ; that it may likewise be granted, that those Expences lay the Foundation of Corruption, and that those who make them, are in Hopes to get either Places or Pensions ; but that, by the Triennial Act, the Country has an Opportunity to remedy any Abuses that may be committed by any of their Representatives, who, to make good their Expences at Elections, should yield to the Temptation of a Place or Pension, to sacrifice their Votes in Parliament ; whereas, on the contrary, this Bill will establish a Grievance, and take away a Remedy ; that as the Triennial Act gain'd the Affections of the People, 'twas to be fear'd that the repealing of it would have a contrary Effect : That what had been suggested about foreign Allies, was, in his Opinion, no proper Argument for this Bill, our Constitution, which ought to be altogether independent on Foreigners, being solely to be considered in this Debate : As to what had been alledged concerning the Disaffection of many of his Majesty's Sub-

jects ;

jects; he said, He was sorry to hear the last Parliament unjustly reflected upon, since no House of Commons could be more forward than they, in shewing their Affection to his Majesty; and they not only readily settled his Revenue, but enacted a Reward of 100,000 *l.* for the apprehending of the Pretender to his Crown; that when his Majesty came to take Possession of his Throne, he was received with the general Acclamations of the People: That he would not pretend to enter into the Reasons of the present Disaffection, but yet he would venture to say, that it had been easy for the King, upon his coming over, to have united the whole Kingdom; that he wish'd their had been no Mistake in those who would appear to be the King's best Friends. Be that as it would, it was his Opinion that this Bill would not procure that good Agreement between King and Country, which they who brought it in seem'd to have in View; but, on the contrary, might end in the Destruction of those who advis'd it, and prove mischievous both to the King and his People, as tending to create Disunion between them: That he hop'd the Ferment was not so great as it was represented; and besides, no Man could say, that two Years hence the People would be in the same ill Humour, as they were said to be at present: Upon all which Reasons he was against this Bill.

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1716.

This Speech was answered by the Earl of *Ilay*, who begg'd E. of *Ilay*. Leave to offer some few Thoughts of his own upon the important Matter that was under Consideration: Then pursuing the chief Reasons on which this Bill was grounded, he urg'd, among other Things, 'That 'tis certain frequent Elections occasion ruinous Expences; and 'tis no less true, that ruinous Expences beget, of course, Corruption; for when Gentlemen have laid out their Estates in Elections, they must exert their Industry to find out some Means to make themselves Amends: That besides this Evil, frequent Elections are a great Occasion of Vice, Debauchery, and Decay of Trade: That notwithstanding whatever had been suggested against long Parliaments, it was undeniable, that the Constitution was safe under a Parliament of Seventeen Years Continuance, in King *Charles II*'s Reign; that, on the contrary, it was certain, that frequent Elections occasion great Heats, and even implacable Feuds and Divisions between Father and Son, Husband and Wife, Brother and Sister: That, on these Occasions, when Party-Heaths go round, the naming of one General before another, often produces a bloody Quarrel; and, which is far worse, the sacred Name of the Church is impiously profan'd in the Streets, and commonly join'd with Treason.' After this he made some Remarks on our antient Constitution, in Relation

Anno 2. Geo. I.

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to Parliaments; and, in particular, took Notice of the great Change which, in Process of Time, has happened in the Qualification of the Electors, by the Increase and Plenty of Silver and Gold Species in *Europe*; for Forty Shillings a-Year in Freehold, which qualifies a Man to vote in Elections, was formerly as good as Forty Pounds is at present; so that formerly the Electors were either Gentlemen or Men of Substance, whereas the Majority of them are of the Dregs of the People, and therefore more subject to Corruption. From all which he inferr'd, 'That frequent Elections render our Government dependent on the Caprice of the Multitude, and very precarious. He also took Notice, that if the Heats were increased since the King's Accession to the Crown, 'twas chiefly because some Persons, who had a great Opinion of their own Merit, were not in Office; which gave him an Opportunity to vindicate his Majesty as to the Distribution of his Favours, and the rewarding those who, in the worst of Times, had shewn their Zeal for his Succession, and, during the late Rebellion, ventur'd their Lives for his Majesty's Service. Upon the whole Matter his Lordship was for committing the Bill.

E. of Peterborough.

The Earl of *Peterborough* spoke next, and said, 'That whether he was in Employment or no, he had still an entire Affection for the King, and wish'd he could give his Vote for this Bill; but that he would not be for a Remedy that might cause a greater Evil. As to what had been suggested in Favour of those who ventur'd their Lives to serve the Government, he observed, that Men who cannot fight for a Cause, can't die for it. He afterwards said, That if this present Parliament continued beyond the Time for which they were chosen, he knew not how to express the Manner of their Existence, unless, begging Leave of that venerable Bench, [*turning to the Bishops*] they had Recourse to the Distinction us'd in the *Athanasian Creed*, for they would neither be made nor created, but proceeding.

E. of Nottingham.

The Earl of *Nottingham* spoke next on the same Side, and said, 'That he was against this Bill, because he thought it would rather exasperate, than quiet the Minds of the People. That this Bill shew'd a Distrust of the Affections of the People, and an Intention of governing by Fear, which, in his Opinion, was the worst Way of Government: And God forbid his Majesty should have no Prospect of gaining the Affections of his Subjects. That the King came in universally belov'd, and was receiv'd with the general Acclamations of his People; and tho' he could not assign the true Cause of the present Dissatisfaction, yet some secret Cause must have been given for it: That he hop'd the People's Dissatisfaction was not so great as it was represented: That the Rebellion was

entirely

entirely suppress'd and at an End; but if any Ferment yet remained, this Bill was a very improper Way to allay it, and would rather rivet the disaffected in their Prejudices against the Government, than make them change their Opinion; That one of the Arguments urg'd for this Bill, was, That it would encourage Foreign Princes and States to enter into Alliances with us; but that, in his Opinion, the same might have a contrary Effect, for foreign Potentatès may be deterred from entering into Measures with us, when they shall be inform'd, by the Preamble of this Bill, that the Popish Faction is so dangerous, as that it may be destructive to the Peace and Security of the Government; and may apprehend from this Bill, that the Government is so weak, as to want so extraordinary a Provision for its Safety; which seems to imply, that the Gentlemen of *Britain* are not to be trusted in a new Election; and that the good Affections of the People are restrained to so small a Number as that of which the present House of Commons consists. He urg'd, That frequent and new Parliaments are required by the Fundamental Constitution of the Kingdom; and that the Practice thereof for many Ages was sufficient Evidence of this Constitution. That this Bill was so far from preventing Corruption, that it would rather increase it; for the longer a Parliament is to last, the more valuable to be purchased is a Seat in it, and the greater also is the Danger of corrupting the Members of it: That whatever Reasons there may be to continue this Parliament for Seven Years, will be at least as strong, and, by the Conduct of the Ministry, may be made much stronger, before the End of seven Years, for continuing it still longer, and even to perpetuate it, which would be an absolute Subversion of the Third Estate of the Realm. He then hinted at the Danger of enlarging the Prerogative, and instanc'd in the Precedent of King *Henry VIII.* who persuaded his Parliament to give him the Abbey-Lands, under Pretence that they would bear Part of his Expences, which would ease them of Taxes, and improve Trade; but that soon after he demanded and obtained great Subsidies, and made Use of those Lands to enslave the Nation.

The Duke of *Argyle* said, ' That he could, by no Means, D. of *Argyle*. agree with the Noble Lord that spoke last, either as to the Beginning or End of the Rebellion: That it had been suggested, that the King had been received with the general Acclamations of his People; but that it was certain, and has since manifestly appeared, that whatever Arts were used by the last Ministry to blind and deceive the People, Designs had been laid to bring in the Pretender long before the King's happy Accession to the Throne: That the Disappointment

Anno 2. Geo. I. of these Designs was entirely owing to Providence, for had

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the Conspirators thrown off the Mask sooner, and improv'd the Ferment their Emissaries had rais'd in the Nation at the Election of the last Parliament, 'tis very probable their wicked Schemes, for setting aside the Protestant Succession, had taken Place. That he wonder'd therefore that any Lord could be puzzled to find out the Cause of the present Disaffection; for it was plain it proceeded from the false Representations of Things and Persons that were industriously spread abroad, both before and since his Majesty's coming in. As to what had been suggested, that the Rebellion was at an End, he observed, That the Rebels had only shifted their Headquarters from *Perth* to *Paris* or *St Germain's*, but that their Emissaries were still as busy and insolent as ever in *Great Britain*, and wanted only an Opportunity to renew the Rebellion, and favour an Invasion. As to what had been hinted, that this Bill would rivet the *Jacobites* in their Opinions, he said, That was no good Argument against it, for he had seen some Persons often shift Sides, and change their Opinions, and be very zealous for both.' The Earl of *Nottingham* taking this Reflection to himself, readily own'd, 'That he was for some Time against the Abjuration-Oath, because he thought a Multiplicity of Oaths would make the Nation unsafe, but that as soon as he was convinced of the Necessity of that Oath, he readily came into it.' Hereupon the Duke of *Argyle* said, 'He was sorry that that Noble Lord took to himself what he said only in the general.'

E. of Nottingham.

D. of Shrewsbury
Ld Parker.

Ld Cowper.

E. of Aylesford.

Bp of London.

The Duke of *Shrewsbury* and Lord *Parker* who spoke next, declared themselves, the first of them for, the other against the Bill: And then the Lord *Cowper* recapitulated the Arguments that had been urg'd on either Side; gave a genuine Account of the Triennial Act, and by what Means it was obtained; and vindicated the King and Government as to the present Dissatisfaction; appealing to the Lords and Commons, whether the least Provocation had been given, either by his Majesty or his Ministers; and asserting, that if there was any Fault on the King's Side, it was too much Lenity; and that the only Crime that could be charg'd on his Ministers, was their Zeal and Vigilance in Defence of his Majesty's Person and Government.' Then the Earl of *Aylesford*, having answered Part of the Lord *Cowper's* Speech, the Bishop of *London* said, 'That when he came to the House, he knew not which Way he should give his Vote, and hop'd to be guided and determined by what should be offer'd on both Sides on this important Subject; but now he own'd he was confounded between Dangers and Inconveniencies on one Side, and Destruction on the other.'

The

The Earl of *Anglesea* spoke next, with a great deal of Vehemence against the Bill; and the Duke of *Buckingham*, who had spoke before, clos'd the Debate with saying, 'That he was for the Bill, but did not think it seasonable.' At length, after a Debate that had lasted five Hours, the Question that the Bill be committed, being put, it was carried in the Affirmative by 35 Votes, as follows :

Content 77 }
Proxies 19 } 96

Not Content 43 }
Proxies 18 } 61

Anno 2. Geo. I.
1716.
E. of Anglesea.
D. of Bucking-
ham.

And so the Bill was committed to a Committee of the whole House, for *Monday* the 16th of *April*; whereupon several Lords entered the following Protest.

The Septennial
Bill committed to
a Committee of
the whole
House.

Die Sabbati, 14 Aprilis.

Hodie 2da vice Lege est Billa, intituled, An Act for enlarging the Time of Continuance of Parliaments, appointed by an Act, made in the Sixth Year of the Reign of King William and Queen Mary, intituled, An Act for the frequent Meeting and Calling of Parliaments.

And it being propos'd to commit the Bill, after long Debate thereupon, the Question was put, whether the said Bill shall be committed, and it was resolved in the Affirmative.

Dissentient

I. Because we conceive that frequent and new Parliaments are required by the Fundamental Constitution of the Kingdom, and the Practice thereof, for many Ages, (which manifestly appears by our Records) is a sufficient Evidence and Proof of this Constitution.

II. Because it is agreed, that the House of Commons must be chosen by the People, and when so chosen, they are truly the Representatives of the People, which they can't be so properly said to be, when continued for a longer Time than that for which they were chosen; for after that Time, they are chosen by the Parliament, and not by the People, who are thereby deprived of the only Remedy which they have against those who either do not understand, or through Corruption do wilfully betray the Trust reposed in them; which Remedy is to chuse better Men in their Places.

III. Because the Reasons given for this Bill, we conceive, were not sufficient to induce us to pass it, in Subversion of so essential a Part of our Constitution.

1. For as to the Argument, That this will encourage the Princes and States of *Europe* to enter into Alliances with us, we have not heard any one Minister assert, that any one

Anno 2. Geo. I. Prince or State has ask'd, or so much as insinuated, that they wish'd such an Alteration.

1716.

Nor is it reasonable to imagine it ; for it cannot be expected that any Prince or State can rely upon a People to defend their Liberties and Interests, who shall be thought to have given up so great a Part of their own ; nor can it be prudent for them to wish such an Experiment to be made, after the Experience that *Europe* has had of the great Things this Nation has done for them, under the Constitution which is to be alter'd by this Bill.

But on the other Hand, they may be deterred from entering into Measures with us, when they shall be inform'd by the Preamble of this Bill, that the Popish Faction is so dangerous, as that it may be destructive to the Peace and Security of the Government ; and may apprehend from this Bill, that the Government is so weak, as to want so extraordinary a Provision for its Safety ; which seems to imply, that the Gentlemen of *Britain* are not to be trusted or rely'd upon ; and that the good Affections of the People are restrained to so small a Number, as that of which the present House of Commons consists.

2. We conceive that this Bill is so far from preventing Expences and Corruptions; that it will rather increase them ; for the longer a Parliament is to last, the more valuable to be purchased is a Station in it, and the greater also is the Danger of corrupting the Members of it : For if ever there should be a Ministry, who shall want a Parliament to screen them from the just Resentment of the People, or from a Discovery of their ill Practices to the King, who cannot otherwise, or so truly be inform'd of them, as by a free Parliament, it is so much the Interest of such a Ministry to influence the Elections, (which, by their Authority, and the Disposal of the publick Money, they, of all others, have the best Means of doing) that 'tis to be fear'd they will be tempted, and not fail to make Use of them ; and even when the Members are chosen, they have a greater Opportunity of inducing very many to comply with them, than they could have, if not only the Sessions of Parliament, but the Parliament itself, were reduced to the ancient and primitive Constitution and Practice of frequent and new Parliaments ; for as a good Ministry will neither practise nor need Corruption, so it cannot be any Lord's Intention to provide for the Security of a bad one.

IV. We conceive that whatever Reasons may induce the Lords to pass this Bill to continue this Parliament for Seven Years, will at least be as strong, and may, by the Conduct of the Ministry, be made much stronger before the End of Seven Years, for continuing it still longer, and even to perpetuate

perpetuate it; which would be an exprefs and absolute Sub-
 version of the third Estate of the Realm.

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 1716.

Poulet, Strafford, Northampton, Fr. Roffen. Willoughby de Broke, Foley, Anglesea, Nottingham, Abingdon, Aylesford, Osborne (a), Dartmouth, Montjoy, Fr. Cestriens. Bathurst, Compton, Somerset, Salisbury, Bristol, Mansel, Gower, Bingley, Trevor, P. Hereford, Bruce, Alburnham, Shrewsbury, Berkshire, Tadcaster (b), Guilford, Weston.

April 16. The House, in a Committee of the whole Farther Debate House, consider'd of the said Bill, and most of the Peers on the Septennial Bill. who had spoken before, made Speeches for or against it. The Bishop of Rochester, who had not yet spoken on this Bp of Rochester: Subject, said, 'That if this Bill were never so good in itself, it was very unseasonable, because very unpopular, and altogether useless, the Rebellion being crush'd, and the Power of France not to be fear'd, now especially, when we have a glorious standing Army, and a Ministry that knows how effectually to engage the Affections of the People.'

The Committee having gone through the Bill, and order'd the Blank before the Word *Years*, to be filled up with the Word *Seven*; the Question was put, whether the same should be reported, in order to be engross'd, which was carry'd in the Affirmative, by 74 Voices against 39. The next Day Debate on the 3d Reading the said Bill was reported, and, without dividing, order'd to be engross'd; and being read the third Time on the 18th thereof.

April, there arose a fresh Debate, in which the Earl of Nottingham demonstrated, 'That Counsels for enlarging the Prerogative, had ever been pernicious to the Crown.' To this the Duke of Argyle reply'd, 'That not being so well D. of Argyle. read in History as that noble Lord, he would confine himself to what had happened in his own Time; and that he had observed that his Lordship had, by Turns, oppos'd all that had been offer'd, either for the Interest of the Crown, or the Liberties of the People, of which he might easily produce several Instances; adding, he did not wonder there appeared already so much Joy among a certain Party, over a repenting Sinner.' Upon the whole Matter, the Question being put, Whether this Bill should pass? it was carry'd in the Affirmative, by a Majority of 69 Voices against 36; but 24 Lords protest'd against it, viz. Somerset, (c) Aylesford, Trevor, Mansel, Gower, Willoughby de Broke, Bruce, Tadcaster, Berkshire, Nottingham, Northampton, Fr. Cestriens. Alburnham, Dartmouth, Poulet, Foley, Anglesea, Strafford, Bingley, Fr. Roffen. Guilford, Abingdon, Shrewsbury, Cardigan.

Debate on the 3d Reading thereof.
 E. of Nottingham.
 D. of Argyle.

D. of Argyle.

Protest against the passing it.

1716.

F

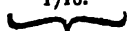
April

(a) Marquis of Caermarthen.

(b) Earl of Thomond in Ireland.

(c) Appointed Master of the Horse to the King, Sept. 27, 1714; but resign'd, Oct. 17, 1715.

Anno 2. Geo. I.
1716.



April 19, The Lords sent down the Bill to the Commons, for their Concurrence to it. The great Opposition it met with there, and the Speeches of the several Members, who argued for or against it, may be found at large in *Chandler's* Edition of the Debates of that House, p. 68.

Earl of Strafford
complains of the
Commons Delay
in Regard to his
Impeachment.

June 14. Mr *Aislaby* having carried up to the Lords the Replication of the Commons, to the Answer of *Thomas Earl of Strafford*; after Mr *Aislaby* was withdrawn, his Lordship complained of the Dilatoriness of the Commons in bringing their Impeachment to an Issue; as also that some of his Accusers were to become his Judges (meaning the Lord *Coningsby* and Sir *Richard Onslow*, two of the Committee of Secrecy, whose Patents for a Peerage were at that Time passing) notwithstanding which, he said, he did not doubt but to make his Innocency appear.

June 22. A Bill from the Commons, intituled, *An Act for appointing Commissioners to enquire of the Estates of certain Traitors and of Popish Recusants, and of Estates given to superstitious Uses, in order to raise Money out of them severally for the Use of the Publick*, was read the third Time; and the Question being put that the Bill do pass, it was resolv'd in the Affirmative by 44 Voices against 19. Whereupon the following Lords enter'd their Protest.

Protest against
passing the Bill
relating to the
forfeited Estates.

Dissentient'

I. We conceive there is no Necessity of this Bill, because the ordinary Forms of Law will bring all the Forfeitures of Persons attainted into the *Exchequer* much sooner, and with less Expence to the Publick, than will be by this Bill.

II. This Bill takes away the Estates of Persons tho' innocent, and subjects them to severe Penalties not to be avoided by any Method agreeable to Reason and Justice.

III. It vests all Leases for Years, of Persons attainted, in the Crown, from the four and twentieth of *June*, One thousand seven hundred and fifteen; whereas by Law such Leases are not forfeited but from the Time of Conviction; and this may overthrow the Estates of innocent Purchasers or Mortgagees of such Chattel Leases, who may have bought and lent their Money under the safe Protection of the Law.

IV. Because, by this Bill, all Debtors are obliged to discover the Debts they owe to any Person, to the Commissioners by the 24th of *November*, 1716, under the Penalty of forfeiting double the Debt, in case the Creditor happen to be attainted at any Time before the 24th of *June*, 1718, altho' before the 24th of *November*, 1716, he be neither accused, nor so much as suspected; and, we conceive, no Construction can be made of that Clause, from

any seeming Inconsistency in it, to exempt it from the Absurdity and Injustice enacted by it.

Anno 2. Geo. I.
1716.

V. Because any Arguments drawn from any Part of that Clause to make the rest of it good Sense, were they just, yet we cannot agree to enact such a Clause, which must either be not good Sense or unjust.

VI. Because every Person who has any Claim to, or Interest in any other Man's Estate, must make his Claim before the Commissioners by *June*, 1717, or else, if the Person whose Estate is subject to such Claim happens to be attainted by *June*, 1718, though till then he be never accused nor suspected, they are for ever barred; and no Construction was endeavoured to be made of this Clause to excuse it from the Absurdity and Injustice apparent in it.

VII. The Act for the *Irish* Forfeitures being urged as a Precedent for this Bill, we conceive, if that Act were liable to the Objections which this Bill is, by having in it the like Clauses, yet that is no good Reason for the passing this; for if that Parliament did a Wrong and Injustice, it is no Argument for this Parliament to do the same, lest, in process of Time, repeated Precedents of this Kind may become too hard for Reason and Justice.

VIII. Because the general Words in this Bill may give Occasion to the Commissioners to think, and the Judges to construe, that they have Power to summon Peers, examine them upon Oath, and commit them to the Common Goal, which, we conceive, was contrary to the Sense of the House, and far from their Intention to agree to.

IX. Because this Bill takes away the Power from his Majesty of doing the least Act of Charity to a starving Wife and Children out of the forfeited Estates, except a Provision for the Wives and Daughters of the late Duke of *Ormonde*, the late Lord *Mar*, and the late Lord *Bolingbroke*.

Abingdon, Montjoy (a), Hay (b), Trevor, Compton, Gower, Strafford, Mansell, Berkeley of Stratton, (c) Aylesford, Foley, Batburst, Bruce.

June 26. The King came to the House, and the Commons attending, his Majesty gave the Royal Assent to several publick and private Bills, after which the Lord Chancellor read his Majesty's Speech to both Houses, which being inserted in *Chandler's* History of the Commons, we think it needless to repeat: Suffice it to say, that the Parliament was prorogued by several Prorogations to the 20th of *February*.

It is remarkable that this First Session was continued by different Adjournments above fifteen Months.

F 2

The

(a) Viscount Windsor of Ireland. (b) E. of Kinnoul in Scotland.

(c) Resign'd his Post of First Commissioner of Trade, in April 1715, to which he had been preferr'd Nov. 29, 1714.

Anno 3. Geo. I.
1716-17.

The SECOND SESSION of the FIRST PARLIAMENT of King GEORGE I.

Debate on an Address of Thanks for the King's Speech at opening the second Session.

D. of Newcastle.
Ld Coningsby.

Bp of London.

Ld Coningsby.

ON the 20th of *February* the King came to the House, and having open'd the Session with a Speech from the Throne, the Duke of *Newcastle* (a) mov'd for an Address of Thanks, which was agreed to *Nem. Con.* Next Day his Grace reported the said Address, which occasion'd a Debate: Lord *Coningsby* having enforc'd what was suggested therein, *viz.* That the late Peace was treacherous and dishonourable; the Bishop of *London* thought it incumbent upon him to defend it, and said, 'That he drew up himself the Instruments of that Treaty; and that, in his Opinion, it was as good a Peace as had been concluded for these forty Years past.' Hereupon Lord *Coningsby* replied, 'That he did not intend any personal Reflection, but that the venerable Prelate who spoke last, might remember, That about two Years ago, when the Ministers, who made the late Peace, were impeach'd, his Lordship declared, that he was kept in the Dark, and scarce knew any Thing of what was doing at *Utrecht*.'

Feb. 22. The Lords waited upon the King, with their Address.

Most Gracious Sovereign,

The Address.

WE your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, beg Leave to return your Majesty our most humble and hearty Thanks for your Majesty's most gracious Speech from the Throne; and to congratulate your Majesty on your safe and happy Return to these your Dominions; and on the prudent Administration of his Royal Highness the Prince of *Wales*, under your Majesty, and the great Care he took of the Peace and Security of the Kingdom, during your Majesty's Absence.

'We are sensible, that the gross Defects and pernicious Consequences of the late Treaty of *Utrecht* could not have been remedy'd, but by your Majesty's unwearied Application for the Good of your Subjects; and by that just Regard which is paid by Foreign Potentates to your known Wisdom and Integrity. It is with unspeakable Satisfaction, that we see your Majesty's Endeavours successful in such Conventions, as have already given new Life to our Trade and Credit; and particularly, in the Treaty lately

(a) Appointed Lord Chamberlain of his Majesty's Household, April 13, 1717, in the Room of the Duke of Bolton, made Lord Lieutenant of Ireland.

lately concluded with *France* and the *States-General*. As Anno 3. Geo. I.
 your Majesty has, by this Treaty, recovered to us, in so 1716-17.
 great a Measure, those Advantages, which might have
 been expected from a glorious and successful War, and
 were given up by a treacherous and dishonourable Peace ;
 we beg Leave to congratulate your Majesty upon an Alli-
 ance, which opens to us so fair a Prospect of an undisturb'd
 Succession, an equal Balance of Power, and a flourishing
 Commerce.

We return your Majesty our most humble Thanks for
 your Majesty's most gracious Condescension, in having laid
 before your Parliament the Discoveries concerning the in-
 tended Invasion ; and cannot but regard, with the utmost
 Horror and Indignation, the Malice and Ingratitude of
 those, who have encourag'd such an Attempt against their
 King and Country.

We are sorry to find, that your Majesty's Lenity has
 been ineffectual towards reclaiming a Faction, who have
 render'd themselves so obnoxious to your Justice ; and we
 do assure your Majesty, that we will, to the utmost of
 our Power, support your Majesty against the design'd In-
 vasion, and all your Enemies, both at Home and Abroad,
 in such a Manner, that, by the Blessing of Almighty God,
 neither the Rashness of the one, nor the Wickedness of
 the other, shall be ever able to prevail.

The King's Answer to this Address, was as follows :

My Lords,

I Thank you for this Address, which is so full of Ex- His Majesty's
 pressions of Duty to Me, and Zeal for your Country ; Answer.
 and I make no doubt, but that, with your Support and
 Assistance, under God, We shall get the better of all Our
 Enemies, both at Home and Abroad."

March 22, Upon the Motion for a second Reading of a Debate on the
 Bill sent up from the Commons, for punishing Mutiny and Mutiny-Bill.
 Desertion, the Duke of *Buckingham* moved to put it off till D. of Bucking-
 the *Thursday* following ; but some Lords having observed, ham.
 that such a Delay might be of very dangerous Consequence.
 to the Government, because the last Act against Mutiny de-
 termining the next *Monday*, many Soldiers might take that
 Opportunity to desert with Impunity ; the second Reading
 was put off only till the next Day.

March 25, The Lords read the said Bill a third Time,
 when the Lord *North* and *Grey* excepted against a Clause, Ld North and
 whereby common Soldiers are exempted from Arrests Grey.
 for Debt, which his Lordship urged, encourages Idle-
 ness and Vice among Tradesmen and Artificers, and oc-
 casions frequent Bankruptcies. - Several other Objections

Anno 3. Geo. I. 1717. were raised against the Bill by the Duke of *Buckingham*, the Earls of *Abingdon* and *Anglesea*, the Lords *Harcourt* and *Trevor*, who were answered by the Lord *Cowper*, the Dukes of *Devonshire* and *Newcastle*, and the Earl of *Sunderland*; and the Question being put that the Bill do pass, the same was carried in the Affirmative by 32 Voices against 9.

D. of Buckingham.
E. of Abingdon.
E. of Anglesea.
Ld Harcourt.
Ld Trevor.
Ld. Cowper.
D. of Devonshire.
D. of Newcastle.
E. of Sunderland.

Protest against
passing it.

But upon this Occasion Six Lords entred their Protest.

Dissentient

I. Because no particular Reason or Occasion is so much as suggested in this Bill, for keeping on Foot a standing Army consisting of 32,000 Men in this Kingdom, in Time of Peace; and therefore this Act will be a Precedent for keeping the same Army at all Times, tho' this Kingdom be in Peace; which, we think, must inevitably subvert the ancient Constitution of this Realm, and subject the Subjects to arbitrary Power.

II. Because, by this Bill, the Soldiers are exempted from being arrested by Process of Law, at the Suit of any Person for recovering a just Debt, or upon any Action whatsoever; which is a great Injustice to the Subjects, taking from them the Benefit of the Law for recovering their just Demands, and for obtaining Satisfaction for any Injury done them by a Soldier, either by wounding or maiming, or wrongfully taking away his Goods: And, we conceive, this will be so far from preserving good Order and Discipline in the Army, that, on the contrary, it will be a great Encouragement to the Soldiers to live in their Quarters in all Manner of Licentiousness; and to insult their Fellow-Subjects both in their Persons and Estates, when they know, that by this Law they are disabled from obtaining any effectual Satisfaction from them, by the Course of Justice, for any such Violence or Injury; and the only Reason offered to justify this Exemption from Arrests, being to prevent the taking Soldiers out of his Majesty's Service by collusive Arrests, we think the preventing such an imaginary Mischief can be no Reason to discharge the Persons of Soldiers from being taken upon any civil Process, where the Cause of Action is real, which is a Privilege only belonging to a Peer of the Realm.

III. Because this Bill doth establish Martial Law, extending to the Life of the Offenders, in Time of Peace, which, we conceive, is contrary to the antient Laws of this Kingdom; and the Soldiers are obliged to obey the Military Orders of their superior Officers, under the Penalty of being sentenc'd by a Court-Martial to suffer Death for their Disobedience; and that without any Limitation or Restriction, whether such Orders are agreeable to the Laws of the Realm,

or

or not ; when, by the Fundamental Laws thereof, the Com-
 mands and Orders of the Crown (the supreme Authority)
 are bound and restrained within the Compass of the Law,
 and no Person is obliged to obey any such Order or Com-
 mand, if it be illegal ; and is punishable by Law if he does,
 notwithstanding any such Order or Command, tho' from
 the King.

Anno 3. Geo. I.
 1717.

Trever, Berkeley of Stratton, Abingdon, Bathurst, Northampton, Dartmouth.

During the above Debate a Peer complained of the Disorders committed by the Soldiery in several Places, particularly at *Oxford*, and moved, That before they pass'd a Bill in their Favour, they should inquire into the Riot that happened in that City on the Prince of *Wales's* Birth-Day. The Courtiers insisted on the Necessity of passing the Bill before them without Delay ; but consented that the *Oxford* Riot should be enquired into ; whereupon some Lords of the other Side endeavoured to wave it, by proposing a general Inquiry into the Conduct of the Army. This was opposed by the Courtiers, who alledged, That they ought not to arraign a Body of Men, against whom there was no legal Complaint ; and that such a Proceeding could not but be disagreeable, and even injurious to the King, who, by Prerogative, has the Command of the Army ; and if any Disorders are committed by the Soldiers, the Complaints ought first to be laid before his Majesty ; but that since it had been moved to inquire into the *Oxford* Riots, which had made a great Noise, and had been examined in his Majesty's Council, they ought to address the King, that he would be pleased to cause all the Papers relating to that Affair to be laid before the House. This Address being resolv'd upon ;

Complaint of the Disorders committed by the Soldiery at *Oxford*.

Several Papers relating thereto laid before the House.

On the 3d of *April*, the House being in a grand Committee, all the Papers relating to the said Riot were read ; after which there ensued a great Debate ; the Bishop of *Bristol*, the Archbishop of *York*, the Bishop of *Rochester*, and the Bishop of *Chester* endeavoured to justify the University, alledging, ' That for Forty Years past, they had not paid any Regard to the Birth-Day of any Prince of *Wales*, or even of the Prince sitting on the Throne, by publick Rejoycings. That the University had a Method of expressing their Loyalty, more consistent with the Dignity of their Founders, and the Character of their Persons, than by Illuminations and Bonfires. That as for the Mayor and

Debate thereon.

Bp of Bristol.
 ABp of York.
 Bp of Rochester.
 Bp of Chester.

Magistrates

Anno 3. Geo. I. 1717. Magistrates of the City of Oxford, they were ignorant that it was the Prince's Birth-Day. That the several Affidavits and Informations upon which the said Mayor and Magistrates grounded their Complaints, having been sent up to Court, Copies of the same were returned to the Officers of the Regiment quartered at Oxford, to give them an Opportunity to justify their Proceedings, which produced another Set of Affidavits and Depositions in Behalf of the said Officers. That the Magistrates had no Opportunity to make any Replication in their own Defence, and therefore it was moved, that the House would come to no Resolution upon the Foot of the two Sets of Affidavits, but that they would adjourn the further Proceedings, and appoint a Day, when they would hear the Persons concern'd in those Informations *vivâ Voce*: They insisted upon this Method, because nothing could set this Matter in a truer Light, than the cross examining and confronting the Evidences on each Side; urging, That this Method was the constant Practice of the Courts below, and even of all the Hearings at the Bar of their Lordship's House; and that their Lordships had never yet refused to admit of a Replication. That as to the Disrespect to the Prince Regent, charg'd upon the University, for their Neglect of ringing the Bells, on his Royal Highness's Birth-Day, of the Sixteen Colleges in the University, only three had any Bells to ring: And that it appeared plainly by the Affidavits taken before the Mayor and Magistrates, that the riotous Proceedings on the Coronation Day, and the Birth-Day of his Royal Highness, were occasioned by the Insolence of the Soldiers, encouraged by several Members of the University, calling themselves the *Constitution-Club*, and by the Neglect of the commanding Officers of the Regiment, in not issuing proper Orders to suppress the Disturbance.' The Duke of Buckingham, the Earl of Abingdon, the Lords Harcourt, Trevor, and North and Grey, spoke also in Favour of the University and Magistrates of Oxford.

D. of Buckingham.

E. of Abingdon.

Ld Harcourt.

Ld Trevor.

Ld North and Grey.

Ld Coningsby.

The Lord Coningsby hereupon said, ' That he knew the Usage of the University to have been otherways than had been represented, and gave a short Account of their Behaviour in the Reigns of King Charles II. and James II. and distinguished between their past and present Loyalty. His Lordship own'd, That in those two Reigns they had expressed their Loyalty in a most extraordinary Manner, and had made such great Advances to countenance an unlimited Power in the Prince, that if Providence had not miraculously interpos'd, they had as far as in them lay, destroy'd the Liberties of their Country, which would have involv'd the University in certain Ruin.' The Lord Cowper, the Duke of Kingston, the Earl of Sunderland, the Lords Parker,

Ld Cowper.

D. of Kingston.

E. of Sunderland

Ld Parker.

Townsend,

Townshend, and Cadogan observed, ' That the Disrespect to the Prince Regent, charged upon the University and City of *Oxford*, was manifest, because the Major of the Regiment did, about Ten in the Morning, go to the Mayor, and complained, That he had shewn no Regard to his Royal Highness's Birth-Day, by ringing the Bells; to which the Mayor return'd a shuffling Answer, pretending he did not know it to be the Prince Regent's Birth-Day. Upon this the Major told him, he would draw out his Regiment to celebrate the said Day with proper Rejoycings, which he did accordingly; but that the Mayor, instead of joining the said Rejoycings, fill'd up the publick Street with a vast Mob after him, and some of his Attendants insulted the Soldiers on their March, and gave them opprobrious Language, crying out, *Down with the Roundheads*. That they proceeded so far in their Insults, as to throw Dirt and Stones at the Soldiers, and even attempted to disarm some of them. That the House wherein the Officers of the Regiment and some of the Collegians met to celebrate the Festival, was, in an insolent Manner, assaulted, and the Windows broke by Stones thrown from the opposite House of one *Hurst*, an Ironmonger, upon which the Soldiers, to revenge the Affront, began likewise to break Windows, of which the Major was no sooner informed, but he immediately went out and bid them desist. That it was indeed affirmed in some of the Affidavits produced in Behalf of the University and Magistrates, That a certain Collegian went round the Bonfire, and encouraged the Soldiers to break the Windows of the said *Hurst*, and all that were not illuminated; but that the same was contradicted by no less than five or six Persons, who, upon Oath, declared, That the said Collegian was from Seven till Ten that Evening in their Company, and had not stirred from the House all that Time. That upon the Mayor's applying to the Major of the Regiment, the latter gave immediate Orders for Patrols to go through the City, and send home to their Quarters all the Soldiers they should find in the Streets; And that the Patrols being insulted by some of the Mayor's Attendants, two or three Soldiers fired, but with Powder only, pursuant to the Orders given them.

In the Middle of this Debate, the Earl of *Abingdon* offered a Petition from the Vice-Chancellor and the Mayor and Magistrates of the City of *Oxford*, and insisted, that it should be read; but it was urged on the other Side, That the House being in a Grand Committee, the receiving any Petitions was irregular. Hereupon it was moved, that the Chairman should leave the Chair, which being carry'd in the Negative without dividing; the main Question was again debated.

Anno 3. Geo. I.
1717.
Ld Townshend.
Ld Cadogan.

Anno 3. Geo. I. 'till about Six in the Evening, when the two following Resolutions were agreed to by 65 Voices against 33.

1717.

Resolutions of the Grand Committee of the House relating to the Oxford Riot.

I. That the Lords of the Committee of Council to whom the Papers relating to the Riot at *Oxford* were refer'd, had sufficient Grounds to come to the Resolution reported to his Royal Highness the Prince, *viz.* That the Heads of the University and Mayor of the City neglected to make any publick Rejoicings on the Prince's Birth-Day; but some of the Collegiates, with the Officers, being met to celebrate the said Day, the House where they were was assaulted, and the Windows were broken by the Rabble, which was the Beginning and Occasion of the Riots that ensued, as well from the Soldiers as the Scholars and Townsmen; and that the Conduct of the Major seems well justify'd by the Affidavits produced on his Part.

II. That the Printing and Publishing the Depositions upon which the Complaints relating to the Riots at *Oxford* were founded, while that Matter was under the Examination of the Lords of the Committee of Council, and before they had Time to come to any Resolution touching the same, was irregular, disrespectful to his Royal Highness the Prince, and tending to Sedition.

The Motion for agreeing with the Committee passes in the Affirmative.

The House being resumed, those two Resolutions were immediately reported, and a Motion being made to agree with the Committee in the said Resolutions, it was carry'd in the Affirmative by 58 Voices against 32. Whereupon the following Protest was enter'd.

Dissentient

Protest on that Occasion.

I. Because, by this Resolution, the Heads of all the Colleges and Halls within the University of *Oxford* stand censured, as we apprehend, for Disrespect and Want of Duty to his Royal Highness the Prince, in neglecting to make publick Rejoicings on his Birth-Day; whereas it sufficiently appeared to us, that no Rejoicings had ever been made before that Time, within the said University, on the Birth-Day of an Heir apparent to the Crown, or even of the Sovereign, except only on the Twenty-ninth of *May*, set apart by Act of Parliament, perpetually to be observed as a Day of Publick Thanksgiving.

And there seems the less Reason, in our Opinion, for laying so heavy a Charge on the Heads of those learned Societies, inasmuch as they have not been allowed any Opportunity of being heard thereto, nor even knew themselves to be any ways accused in that Particular.

II. Because the Proceedings of the Major, as we conceive, are not to be justified by Law, if the Affidavits which were sent to make good the Complaint against the Major and Soldiers

diers be considered, as well as those Affidavits which were produced on the Major's Part, there being several Enormities charged, as well on the Major, as on the Soldiers under his Command, by the former Affidavits, no way answered by the latter, or so much as denied by the Major himself in any of his own Affidavits or Letters.

Anno 3. Geo. I.
1717.

III. Because, we conceive, the Matter of Fact relating to the breaking the Windows of the Room wherein the Major and others were, with some Stones from *Hurt's* the Ironmonger's House, has not been sufficiently examined into, for want of giving an Opportunity to the Complainants of replying to the Affidavits relating to that Matter; and suppose the Truth of that Fact had actually appeared upon a full Examination, yet it cannot be pretended to be a legal Justification of the Major for inciting or suffering the Soldiers under his Command, to go through the City insulting the Magistrates, and breaking the Windows of many Citizens, who are not pretended to have given the least Offence to them.

IV. Because the Officers and Soldiers of the Army may take Occasion, from this Resolution, to think themselves exempt from the Civil Power in Criminal Cases, and be induced thereby to contemn and resist the Authority of the Civil Magistrates, to which they are, in such Cases, as liable as any other of his Majesty's Subjects.

V. Because the Civil Officers and Magistrates may probably be discouraged, by this Resolution, from doing their Duty on such Occasions, and his Majesty's Subjects be deterred from making their just Complaints, in an humble and dutiful Manner, of any Oppressions which they have suffered, or may suffer, from any Officers or Soldiers in the Army.

W. Ebor', Fr. Roffen', Geo. Bristol, (a) Bruce, P. Hereford, Buckingham, Say and Sele, Boyle, (b) Job. London, North and Grey, Northampton, (c) Litchfield, Guilford, Harcourt, Bristol, Berkeley of Stratton, Weston, Trevor, Willoughby de Broke, Fran. Cestriens', Compton, Abburnham, Foley, Dartmouth, Montjoy, Abingdon, Mansell.

May 6. The King came to the House, and made a Speech to both Houses, acquainting them; That the *British* Fleet was arriv'd in the *Sound*; that he had given Orders for reducing 10,000 Men; and also Directions for an Act of

1717.

G 2

Grace.

(a) Remov'd from his Post of Ld Almoner to the King, in Nov. 1715.

(b) Earl of Orrery in Ireland; Appointed one of the Lords of the Bed-Chamber to the King, Oct. 18, 1714; but resign'd in 1716.

(c) Appointed Constable of the Tower of London, Dec. 6, 1714; but resign'd Oct. 10, 1715, and was succeeded by Charles Earl of Carlisle.

Anno 3. Geo. I. Grace. The King being withdrawn, the Lords voted an Address of Thanks which was presented next Day, as follows:

1717.

Address of
Thanks to the
King, for redu-
cing 10,000
Men, giving Di-
rections for an
Act of Grace,
&c.

Most Gracious Sovereign,

WE your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, beg Leave to return your Majesty our most humble Thanks for your Majesty's most gracious Speech from the Throne, and for your Majesty's having taken effectual Care to prevent all immediate Danger of an Invasion upon these your Kingdoms, by sending your Fleet so early into the *Sound*: And we cannot but acknowledge, with the greatest Satisfaction, your Majesty's most tender Regard to the Ease of your People, in giving Orders, as soon as it was consistent with the Publick Safety, for reducing so considerable a Number of the Land-Forces. We also give your Majesty our most humble Thanks, for your having communicated to your Parliament, your Intention to pass an Act of Grace, which we hope will have all the good Effects your Majesty so reasonably and justly expects from it.

And we take this Occasion to assure your Majesty, that we will, with the utmost Zeal and Duty, defend and support your Majesty's sacred Person and Government, against all your Enemies both at Home and Abroad.

His Majesty's Answer thereto.

My Lords,

The King's Answer.

I Thank you kindly for this very dutiful Address; your Zeal and Affection to my Person and Government, is what, under God, I shall always principally rely on.

The Earl of Oxford's Petition to be tried.

On the 22d of *May* the Earl of *Oxford* presented a Petition to the House, setting forth, 'How long he had been confined on an Impeachment brought against him by the Commons for High Treason, and other High Crimes and Misdemeanors; submitting his Case to their Lordships Consideration, and praying that his Imprisonment might not be indefinite.' The Lord *Trevor*, who presented his Petition, spoke in his Behalf, and was seconded by the Duke of *Buckingham*, Lord *Harcourt*, the Earls of *Nottingham* and *Abingdon*, and Lord *North* and *Grey*. It was suggested, That the Impeachment was determin'd by the intervening Prorogation of the Parliament; which being opposed by Lord *Coningsby*, a Committee was appointed to search Precedents.

Debate whether his Impeachment was superseded by a Prorogation?

Lord Trevor.
D. of Buckingham.

Lord Harcourt.
E. of Nottingham.

E. of Abingdon.
Lord North and Grey.

Lord Coningsby.
D. of Argyle.
E. of Aylesford.

On the 25th Lord *Trevor* made his Report from the said Committee, upon which the Question was put, whether the Earl of *Oxford's* Impeachment was determin'd by the intervening Prorogation? The Dukes of *Buckingham* and *Argyle*, the Earls of *Nottingham*, *Abingdon*, *Aylesford*, and *May*,

Hay, Lord North and Grey, were for the Affirmative : But the Earl of *Sunderland* (a) and Lord *Coningsby* maintain'd the Negative ; and the Lords *Harcourt* and *Trevor* being of this last Opinion, the Question was carried in the Negative by 87 Voices against 45. Thereupon the following Protest was enter'd.

Anno 3. Geo. I.
1717.

E. of Hay.
Lord North and Grey.
E. of Sunderland.
Lord Coningsby.
Lord Harcourt.
Lord Trevor.

Dissentient

I. Because there seems to be no Difference in Law between a Prorogation and a Dissolution of a Parliament, which, in constant Practice, have had the same Effect as to Determination, both of judicial and legislative Proceedings ; and consequently this Vote may tend to weaken the Resolution of this House, *May 22, 1685*, which was founded upon the Law and Practice of Parliament in all Ages, without one Precedent to the contrary, except in Cases which happened after the Order made the 19th of *March, 1678*, which was reversed and annulled in 1685 ; and in Pursuance hereof the Earl of *Salisbury* was discharged in 1690.

II. Because this can never be extended to any but Peers, for by the Statute 4 *Edw. III.* no Commoner can be impeached for any capital Crime ; and it is hard to conceive, why the Peers should be distinguished and deprived of the Benefit of all the Laws of Liberty, to which the meanest Commoner in *Britain* is intitled ; and this seems the more extraordinary, because it is done unasked of the Commons, who, as is conceived, never can ask it with any Colour of Law, Precedent, Reason or Justice.

Nottingham, Fra. Roffen', North and Grey, Bathurst, Abingdon, Mansell, Hay, Guilford, Dartmouth, Foley, Bruce.

After this, the Duke of *Buckingham* moved for fixing a Day for the Trial of the said Earl ; upon which a Committee was appointed to search the Journals of the House for Precedents of the Lords Proceedings in the like Cases.

The Duke of Buckingham's Motion for fixing a Day for the Trial of the Earl of Oxford,

May 27. The Lord *Trevor*, from the Lords Committees, made a Report, containing several Precedents from the Year 1666, to the Year 1716, of the Lords appointing the Day of Tryal upon Impeachments of the House of Commons.

Debate on the said Motion.

The Clerk having read the said Report a second Time, the Duke of *Buckingham* made a Speech, wherein, among other Things, his Grace represented, ' That it concern'd the whole Peerage of *Great Britain*, to put a speedy End to this Affair, because the Peers are chiefly liable to Prosecutions of this Nature. That he would not enter either into the Merits of the Cause, or into the Reasons which the Commons had

D. of Buckingham.

(a) Appointed Principal Secretary of State, April 12, 1717.

Ann 9. Geo. I.
1717.

had for not prosecuting their Impeachment ; but that it was certain, that the Peer who occasion'd this Debate, had been confin'd about two Years ; that unless this House interpos'd, his Imprisonment might become perpetual ; and therefore, since it appear'd by so great a Number of Precedents as had been laid before them, that the Peers have an uncontested Right to appoint the Day of Tryal, they ought, in his Opinion, to make use of that Right on this Occasion. That he doubted not but all the Members of that Assembly would readily agree with him as to the Thing it self ; and if there were any Difference of Opinions amongst them, it would be as to the Day. That considering the advanc'd Season of the Year, and the Approach of Summer, which render'd the being in Town very disagreeable and incommodious, he thought not only both Houses of Parliament, but the King himself, would be glad of a Recess, to enjoy the Country Air ; and therefore he was for appointing a short Day, and nam'd the 6th of *June* following.* The Lord *Ferrers* seconded the Duke of *Buckingham* ; but the Earl of *Sunderland* answer'd, ' That no Man had a greater Regard to the Privileges of the Peerage, or would do more to maintain them, than himself : That he had a hearty Concern for the Sufferings of those who have the Misfortune to lie under Impeachments : That he had already complain'd, in the Case of the Earl of *Strafford*, of the Delays of the Commons in these Prosecutions, because he thought the whole Peerage concern'd therein ; but that there might be just Reasons for these Delays ; and therefore, to preserve a good Correspondence between the two Houses, he was either for sending a Message to the Commons, to know whether they were ready for the Tryal of the Earl of *Oxford*, or to fix the 13th of *June* for the said Tryal.' The Lord *Townshend** said, ' That the *Saturday* before, when another Question relating to this Affair, was under Debate, the House seem'd inclin'd to appoint a short Day ; that a noble Lord had made a Motion for it ; and so he was for the 6th of *June*.' Altho' his Lordship back'd the Duke of *Buckingham*'s Opinion, yet his Grace said, ' That noble Peer ought not to bring in a Motion made before, as an Instance of the Sense and Inclination of the House ; urging, That a Motion is nothing of it self, unless it be seconded, and afterwards confirm'd by a Vote ; but that any Member of that Assembly was at Liberty to name what Day he pleas'd. After this, the Lord *Coningsby* made a Speech, importing, ' That it appear'd, indeed, by the Report of the Committee, that,

in

* Remov'd from his Post of Lord Lieutenant of Ireland, April 9, 1717.

in Cases of Impeachments, the Lords have the Right to ap- Anno 3. Geor. 1.
 point the Day of Tryal; but that it appear'd, at the same 1717.
 Time, that they had seldom exercis'd that Right, 'till after
 they had been acquainted by the Commons, that they were
 ready for the Tryal. That if the Peers acted otherwise on
 this Occasion, it might create a Misunderstanding between
 both Houses, which might be attended with dangerous Con-
 sequences. That the Instance of the four Peers* who were
 impeach'd towards the End of the late King *William's*
 Reign, which was much insist'd on, was an odious Prece-
 dent, and such as, he hop'd, would not be follow'd at this
 Time. That therefore, before they proceeded farther they
 should send a Message to the Commons, to give them No-
 tice to prepare for the Tryal of the Earl of *Oxford*; and
 then, upon their Answer, the Peers might determine what
 they should think proper. Urging, that this Method ap-
 pear'd the more reasonable, because several Accidents had
 interven'd which had interrupted the Proceedings of the
 Commons, and in particular, the Prorogation of the Par-
 liament. That he would charge no Body with such a De-
 sign; but that he could not forbear saying, That the said
 Prorogation seem'd to have no other View, than to screen
 great Offenders from the Justice of the Nation; and that
 this was the more apparent, from the great Struggle theré
 was in that House, the *Saturday* before, to procure a Vote,
 That the Impeachments were superseded by the Prorogation.
 That this, however, was certain, that the Commons had
 thereby lost the living Evidence they had in their Hands;
 one *Prior*, one *Harley*, &c. having been set at Liberty by
 the Prorogation. — Several Peers seem'd offended
 at his Lordship's naming Persons in that Manner; and the
 Lord *North and Grey* said thereupon, ' That that noble
 Lord had been so long among the Commons, that he ap-
 pear'd to be very well acquainted with, and much concern'd
 for their Privileges; but that he must give Leave to those
 who were born Peers, to take Care of their own. That
 the greatest Prerogative of the Peers, was to be the supreme
 Court of Judicature; and as they were the *dernier Resort*
 of Justice, so he doubted not but they would ever make
 Justice the Standard of their Proceedings. That the whole
 Peerage was concern'd in the Earl of *Oxford's* Case; and
 therefore he was for appointing the short Day that had been
 nam'd for his Tryal. The Duke of *Buckingham*, who D. of Bucking-
 ham.
 back'd this Speech, animadverted upon what Lord *Comingsby*
 had insinuated about the Prorogation, saying, That such an
 Infination

* See Chandler's History and Proceedings of the House of Com-
 mons, Anno 1701, p. 133.

Anno. 3. Geo. I. 1717.
 Ld Harcourt.

D. of Bucking-
 ham.

The 13th of
 June appointed
 for the Trial of
 the Earl of Ox-
 ford.

He petitions for
 two additional
 Council to be
 allowed him,
 which is reject-
 ed.

Insinuation was arraiguing the Royal Prerogative of proroguing and dissolving Parliaments, whenever the Crown thinks it convenient, or the King's Privy Council, who might advise the Exercise of the said Prerogative. The Lord *Harcourt* having shew'd the Necessity of putting an End to this Affair, said, ' They ought, in his Opinion, to give the Commons a longer Day than had yet been proposed ; that on this Occasion, they ought to proceed according to the Rules of Equity and Justice, and even of the inferior Courts, who, the longer a Cause, had been suspended, by unforeseen Interruptions, allowed the more Time to the Council to prepare for Tryal. That it was his Opinion, that the longer Day, provided it were peremptory; was the shortest Way to make an End of this Business ; for if they appointed a short Day, the same might occasion Disputes between the two Houses, which would take up a great deal of Time : That it was to be hoped, that if the Peers allowed a reasonable Time for the Tryal, the same would not be prevented by a Prorogation ; especially considering, how long the Peer who lay under an Impeachment, had been confin'd.' The Duke of *Buckingham* said thereupon, ' That he did not understand the Paradox that was just now advanced, *viz.* That the longest Day was the shortest Way to come to a Determination of this Affair ; that let the Peers appoint what Day they think fit, yet the Commons have still a Right to demand more Time, nor can the Lords, in Justice, deny it, if the Commons shew just Reasons for their Demand. And as for the Prorogation, which 'twas apprehended might prevent the Tryal, the same entirely depended on the Royal Prerogative ; and if such a Thing should happen, no Body could say any Thing to it ; concluding, that whatever he had said on this Occasion, was merely out of Regard to Publick Justice, and to the Prerogatives of the Peerage ; for, he hoped, no Body would suspect him of Partiality to the Lord who occasion'd this Debate. Then the Question being put, That the 6th of *June* be appointed for the Tryal of the Earl of *Oxford* and Earl *Mortimer* ; it was carried in the Negative by 85 Votes against 44 ; Then it was resolv'd, without dividing, that the 13th of *June* be appointed ; and a Message was immediately sent to the Commons to acquaint them therewith.

On the 7th of *June*, the Lords took into Consideration a Petition of *Robert Earl of Oxford*, praying, ' That the Council formerly allowed him, might be continued to him ; and that Sir *Robert Raymond*, (a) and Mr *Reeves* (b) might be

(a) Appointed Lord Chief Justice of England, Feb. 28, 1724-25 ; and created a Baron of Great Britain, Jan. 18, 1730-31.

(b) Since made Lord Chief Justice of the Common Pleas.

be added to them.' But several Lords having represented, Anno 3. Geo. I.
that this last Demand was irregular, the same was rejected. 1717.
The Duke of *Buckingham* said on this Occasion, ' That as
the whole Peerage was concern'd in a Prosecution of this Nature, he would readily give his Vote for granting the Earl of *Oxford's* Request, if he thought it of any Use to him; but that, in his Opinion, all those who had impeach'd him of High-Treason were ashamed of it; except, perhaps, one single Person, who could be ashamed of nothing.' D. of Buckingham.

About this Time, the Lords address'd his Majesty, that he would be pleas'd to appoint a Lord High Steward for the Tryal of the Earl of *Oxford*: Accordingly his Majesty appointed the Lord *Cowper*, Lord High Chancellor. A Lord High Steward appointed for his Tryal.

June 12. The Lords having receiv'd a Message from the Commons, acquainting them with the Reasons why they could not proceed on the Earl of *Oxford's* Tryal at the Time appointed; and to desire that the same might be put off to a farther Day; their Lordships took it immediately into Consideration. The Earl of *Sunderland* moved to allow the Commons a Fortnight longer; but the Duke of *Devonshire* said, twelve Days were sufficient; and so moved, That the Tryal be adjourn'd to the 24th of *June*. The Lords *North* and *Grey*, *Trevor*, and *Harcourt* insisted; That the Lords having fix'd a peremptory Day for the Tryal, they ought not to grant any farther Time; But the Question being put upon the Duke of *Devonshire's* Motion, the same was carried in the Affirmative, by 76 Voices against 57. The next Day, the Lords sent a Message to the Commons, to acquaint them with the said Resolution. Debate on the Commons desiring it to be farther delay'd. E. of Sunderland. D. of Devonshire. Ld North and Grey. Ld Trevor. Ld Harcourt. The Tryal of the Earl of Oxford put off till the 24th of June.

On the 24th of *June*, being the Day appointed by the House for the Tryal of the Earl of *Oxford*, the Lords having adjourned themselves to the new erected Court in *Westminster Hall*; and the Managers, and other Members of the House of Commons having taken their respective Places, the Earl of *Oxford* was brought to the Bar: Then the Articles of Impeachment, the Earl's Answer, and the Commons Replication being read, the Lord High Steward open'd the Tryal with the following Speech. Account of the Proceedings at the Tryal.

Robert Earl of Oxford and Earl Mortimer,

' It has been usual, before the Commons proceed, to say something from this Place to Persons in your Lordship's present Condition; partly by Way of Exhortation to a reasonable Confidence in the great Honour, Justice, Wisdom, Integrity, and Candour of their Judges, their Peers, the House of Lords in Parliament assembled, and partly by Way of Direction, to assist them in their Behaviour and Conduct during the Course of their Tryal. The Lord High Steward's Speech to his Lordship.

Anno 3. Geo. 2.
1717.

But, considering the many great Offices your Lordship has born in the State, your long Experience and known Learning in all Parliamentary Proceedings, I cannot but think it would seem improper for me to be speaking to your Lordship in that Manner.

Wherefore I proceed barely to acquaint your Lordship, and others whom it may concern, with such Orders as the Lords have made, which 'tis fit should be taken Notice of thus early in this Tryal.

I. Your Lordship and all other Persons who have occasion to speak to this Court, must address their Speech to the Lords in general, and not to any Lord in particular.

II. Your Lordship's Council may be present at the Bar, in order to be heard to any Point or Matter of Law, if such shall arise on either of the Articles for High-Treason : And that you may make your full Defence by Council, if you think fit, on the Articles for High Crimes and Misdemeanours, as well on Matters of Fact as of Law.

III. That your Witnesses are to be examin'd on Oath, as well to the Articles for High-Treason, as those for High Crimes and Misdemeanours.

Then the Lord High-Steward, with the Lords Leave, went down, and having seated himself by the Table, told the Gentlemen of the House of Commons, That they might now proceed : Hereupon Mr Stanhope * said,

My Lords,

Mr Stanhope.

' The Distance of the Lord High-Steward from this Place may have been the Occasion, that we have mistaken something that fell from thence ; we do therefore desire, to avoid all Mistakes (and I believe we might be mistaken) for we understood by my Lord High-Steward, *That Council should be allowed the Prisoner at the Bar, as well to the Defence of the High-Treason, as to the High Crimes and Misdemeanours* : It is possible, we misapprehend his Lordship, but we hope his Lordship will be pleased to explain it to us. Hereupon the Lord High-Steward said, *To prevent Mistakes, I repeat what I said, That Council for the Lord, the Prisoner at the Bar, may be present at the Bar, in order to be heard to any Matter or Point of Law (if any such shall arise) relating to the High-Treason ; and likewise to make that Lord's Defence on the Articles of Impeachment of High-Crimes and Misdemeanours, as well in Matters of Fact, as Matters of Law.*

Then

* Made Principal Secretary of State, Sept. 24, 1714, in the Room of William Bromley, Esq; First Commissioner of the Treasury, and Chancellor of the Exchequer, April 13, 1717, in the Room of Robert Walpole, Esq; and created an Earl of Great Britain, April 7, 1718.

Then Mr *Hampden*, * one of the Managers for the Com-
mons, made the following Speech ; which, as it contains a
concise and comprehensive View of the several Articles
exhibited against the Earl of *Oxford*, renders intirely unne-
cessary the inserting of them at large.

Anno 3. Geo. I.
1717.

My Lords,

' The Commons of *Great Britain* in Parliament assem-
bled, out of indispenfible Duty to their Country, and Zeal
for the Preservation of the common Liberties of *Europe*,
have brought to your Lordships Bar, *Robert Earl of Oxford*
and *Earl Mortimer*, late High Treasurer and Privy Coun-
sellor of this Kingdom, charged with the highest Crimes
and Misdemeanours by him committed and done against the
Person, Crown and Dignity of his Sovereign, the Peace
and Interest of this Kingdom, and in Breach of the several
Trusts reposed in him.

Mr Hampden
opens the Charge
of the Commons
against the Earl
of Oxford.

' The Commons in their Charge set forth the many
solemn Treaties and Alliances which had been enter'd into
between the Crown of *England*, and other Princes and Po-
tentates of *Europe*, for their mutual Safety, from the Con-
siderations of the common Danger which then threaten'd
all *Christendom*, from the immoderate Growth of the Power
of *France*.

' They likewise take Notice to your Lordships, of the
prosperous and flourishing Condition which the Liberties of
Europe were in, when, under these Treaties and Alliances,
it pleas'd Almighty God, to bless the confederate Arms, un-
der the Command of their great and victorious General the
Duke of *Marlborough*, with such a Series of Successes as
far exceed'd their own Expectations, and by the Wisdom
and Unanimity of their Councils, many signal Advantages,
both by Sea and Land, were obtained against the common
Enemy, whereby the Glory of the confederate Arms, and
the Reputation of *Great Britain* in particular, was rais'd to
a higher Pitch than in any former Age.

' That in this prosperous Condition of Affairs, the Pri-
soner at the Bar, with other evil-minded Persons, Enemies
to the true Interest of their Country, as well as to the com-
mon Liberties and Welfare of *Europe*, did, by many wicked
Arts and Insinuations, obtain Access to her late Majesty
Queen *Anne*, got into her Councils, and into Places of the
highest Trust, to make Way for his and their pernicious
Enterprizes, form'd a treacherous Correspondence with the
Emissaries of *France*, and gave false and pernicious Coun-
cils to her Majesty.

1717.

H 2

' The

* One of the Tellers of the Exchequer, afterwards Treasurer of the
Navy, and a Privy Counsellor.—See Chandler's History of the House
of Commons, Anno 1726, p. 366.

Anno 3. Geo. I.

1717.

‘ The particular Articles exhibited by the Commons, to which proper Evidence will be apply’d, contain a Charge,

‘ That this great Person at the Bar, having no Regard to the Honour or Safety of his Sovereign, or these Kingdoms, wherewith he was intrusted, or to the many solemn Engagements with the old and faithful Allies of this Nation, but being devoted to the Interest and Service of the common Enemy, did, by private and secret Negotiations, in Breach of all publick Faith, maliciously and wickedly cultivate and improve the Demands of the Enemies of his Country, more to their Advantage than they themselves could have ever hoped for.

‘ That by clandestine and secret Negotiations with the Enemies of *England*, he gave up the particular Interest of his own Country; that he assumed to himself Regal Power, and in a Time of open War, took upon himself to meet and treat with the Enemy, without any Authority or Power from his Sovereign, and did what in him lay to subvert the ancient and establish’d Constitution of this Kingdom.

‘ That he conceal’d the Advice and pernicious Influence, whereby he had engag’d his Sovereign, and prostituted her Honour, which had been rais’d to the highest Pitch of Glory abroad, and been justly held in Veneration with her Allies; and the Royal Hand was, by the wicked Arts of the Prisoner at the Bar, made the Instrument to advance the Interest of the common Enemy.

‘ That by deceitfully amusing the Allies of the Crown of *Great Britain*, and by private, separate and unjustifiable Negotiations, enter’d into and carry’d on by the Prisoner at the Bar, a lasting Reproach was brought upon this Nation, and the publick Faith of many Treaties, wherein *England* was engag’d in the most sacred and solemn Manner, was notoriously violated, and the faithful Allies of the Crown amus’d and deceiv’d.

‘ That the Prisoner at the Bar did, in the most fatal Manner, impose upon and delude his Sovereign, in accepting a pretended Expedient from the Enemy, which the Enemy at the same Time declared to be null and void. That the most unjustifiable and destructive Measures were taken by him to dissolve the whole Confederacy, without any Regard to Religion, Liberty, or the Faith of Treaties; and in Consideration of his wicked Advice, great Numbers of the Confederate Troops, who had, on many Occasions, signaliz’d themselves in the Defence of the Cause of *Europe*, were given up as a Sacrifice to the Fury and Revenge of the Enemy.

My Lords,

‘ The Commons in their Charge set forth the particular Measures

Measures concerted and taken by the Prisoner at the Bar, Anno 3. Geo. I, to compleat the Destruction of the common Cause of Europe, and the Protestant Succession to the Crown of these Realms. And they charge,

1717.

‘ That the Prisoner now before your Lordships, did traitorously aid, assist, and adhere to the Enemies of his Queen and Country, and advised and promoted the giving up to those Enemies the important Town and Fortrefs of *Tournay*, [See p. 13.] together with *Spain* and the *West-Indies*.

‘ That he sacrific’d the Trade and Commerce of *Great-Britain* to its common Enemy, without the least Shadow of Advantage procured to these Kingdoms; and betray’d the National Faith and Honour of the Crown, employing against his Imperial Majesty (the great and faithful Ally of this Kingdom) the Naval Power of the Crown, and the Supplies granted by Parliament, in direct Violation of the Grand Alliance; and contrary to her Majesty’s repeated Declarations from the Throne, and her plain and full Instructions to her Plenipotentiaries at *Utrecht*.

‘ That he took upon himself to exercise the most arbitrary and unwarrantable Authority; assuming to himself the chief Direction and Influence in her late Majesty’s Councils, and most wickedly prostituted the Honour of the Crown, and the Dignity of Parliament; totally depriving her Majesty of the wholesome and necessary Advice of her Parliament, and misrepresenting the most essential Parts of the Negotiations of Peace, to obtain the Sanction of Parliament to his wicked and pernicious Proceedings, thereby fatally deceiving her Majesty, her Allies, her Parliament, and her People, by several false Speeches and Declarations, concerted and advised by him, to be made by her Majesty from the Throne to her Parliament, on the Subject of the said Negotiations of Peace; and by such wicked and unexampled evil Council, he did most ungratefully abuse the Favour of his Royal Mistress, and by means of her Authority misled her Parliament into groundless and prejudicial Resolutions; and thereby not only prevented the just Advice of the Parliament to her Majesty, in that critical Juncture, but obtained the Approbation of Parliament to his mysterious and dangerous Practices; and did not only deprive her Majesty of the Confidence and Affection of her Allies, but expose her Majesty and her People to the Contempt of the Enemy.

‘ That he had us’d his utmost Endeavours to subvert the ancient Constitution of Parliament, the great and only Security of the Prerogative of the Crown, and of the Rights, Liberties, and Properties of the People, and most wickedly attempted to destroy the Freedom and Independence of this noble House, the great Ornament and nearest

Support

Anno 3. Geo. I. Support of the Crown ; disguising his mischievous Intentions under Pretence of superior Zeal for the Prerogative of the Crown ; but by his false Advice her Majesty was depriv'd of the seasonable and wholsome Councils of her Parliament, and the Prerogative perverted to the Dishonour of the Crown, and the irreparable Mischief to the Constitution of Parliament.

1717.

My Lords,

' The Commons. have farther charged the Noble Lord with Corruptions, in illegally misapplying Moneys appropriated by Parliament, and with preventing any Parliamentary Inquiry into the same ; to the Reproach and Scandal of Parliaments, in Breach of his Trust, the highest Abuse of the Goodness of his Sovereign, and the greatest Injustice and Oppression of her Subjects ; and that he defrauded her late Majesty of the Publick Money with which he was entrusted, for the Support of the Honour and Dignity of the Crown.

' That this great Person did assume to himself the supreme Direction in her late Majesty's Councils, and did introduce to her Majesty, for a pretended publick Minister, a Traytor in Disguise, named * in the Articles ; and gave such Traytor several considerable Sums out of her Majesty's Treasure, in a fictitious and scandalous Manner ; such Person being sent into this Kingdom, under false Pretences, secretly to promote the Interest of the *Pretender*, whereby the Prisoner at the Bar did ungratefully expose the Person of her Majesty, and notoriously encourage the Adherents of the *Pretender*, to the apparent Danger of the Protestant Succession to the Imperial Crown of these Realms. And

' *Lastly*, That this great Person at the Bar, did, by the most false and wicked Councils and Practices, betray and give up as a Sacrifice to the implacable Resentments of their enraged and powerful Enemy, a free and generous People, the faithful and useful Allies of this Kingdom, the brave *Catalans*, who, by the evil Measures concerted and taken by the Prisoner at the Bar, were betray'd into irrecoverable Slavery ; and the Honour of the *British* Nation, always renown'd for the Love of Liberty, and for giving Protection to the distress'd Assertors of it, therein most basely prostituted by the pernicious and detestable Council of the Prisoner at the Bar.

' Thus your Lordships have a View of the Guilt in which the Treasons and other Crimes committed by the Prisoner at the Bar have involv'd him : And it is with Astonishment the Commons observe, That his Defence is an Attempt to asperse the Memory of his Royal Mistress with the

• Sir Patrick Lawless,

the Blame of what was transacted during his Administration, Anno 3. Geo. 1. which, by imposing upon her, he had effected against her Honour, and the Good of his Country, thereby attempting to reflect upon the Justice of the House of Commons, and to cast an Odium upon their Proceedings against him. But we doubt not your Lordships Vindication of the Honour of her late Majesty, and the Proceedings of the Commons in this Prosecution.

1717.

‘ The Commons think it their Duty to express the utmost Abhorrence of the traitorous and wicked Proceedings of the Prisoner at the Bar, and to shew their Repentment against him, as the Author and Promoter of them.

‘ They have found him abusing and betraying the Honour of his Royal Mistress, into whose Favour he had insinuated himself, for the most destructive and wicked Purposes, They have found him insidiously dividing and weakening us and our Allies, betraying our Councils, traitorously giving up our strong Holds, Fortresses and Defences of *Europe*, and her most wealthy and flourishing Countries to the common Enemy in Time of open War ; and contriving and effecting the Dissolution of the greatest and most noble Confederacy, that ever was formed and united in Defence of the Protestant Interest, and the glorious Liberties of *Europe*.

‘ They have found him attempting to deprive these Kingdoms of the only Blessing left to their Hopes, and which, by the Providence of God only, they now enjoy, the most auspicious Government of his present Majesty, the greatest and best of Princes, whose Magnanimity, Wisdom, Piety, and other Princely Virtues have fill’d the Imperial Throne of *Great Britain*, with a Lustre unknown to any former Age. In this Attempt, the Noble Lord at the Bar, wickedly endeavoured to defeat us of our happy Prospect of lasting Felicities, in a long Succession of Protestant Princes in the Royal Line of his most excellent Majesty, the most illustrious Prince and Princess of *Wales*, and their Issue, eminently endowed with all Graces and Accomplishments for making a generous and free People happy ; on the Continuance of which Succession, next under God, all that is dear and valuable to us, entirely depends.

My Lords,

‘ The Commons justly resent and detest the Reproach brought upon the Faith and Honour of their Country, by the great evil Minister at the Bar ; but they promise themselves your Lordships will ever be a Terror to all evil Ministers, how great soever ; and that your Lordships can never fail to do Justice to your injured Country, upon all perfidious Counsellors, who lie in wait to destroy our Religion, Laws and Liberties.’

Anno 3. Geo. I.
1717.

Sir J. Jekyll offering to make good the first Article of Impeachment, Ld Harcourt moves for the Lords to adjourn to their own House, which is agreed to.

Debate in the House of Lords about the Method of the Managers proceeding to make good the Articles.

Ld Harcourt.

Ld. Trevor.
E. of Anglesea.
E. of Nottingham.

Ld Parker.

E. of Sunderland.
Ld Coningsby.
Ld Cadogan.

Mr *Hampden* having done speaking, Sir *Joseph Jekyll* (a) stood up, in order to make good the first Article of the Impeachment; but was interrupted, upon a Motion made by the Lord *Harcourt*, viz. That before the Managers proceeded further, he had a Motion to make, whereupon their Lordships adjourned to their own House.

The Lords being come thither, the Lord *Harcourt* represented, 'That the going through all the Articles of Impeachment, would take up a great Deal of Time to little Purpose; for if the Commons could make good the two Articles of High Treason, the Earl of *Oxford* would forfeit both Life and Estate, and there would be an End of the Matter; whereas the Proceeding in the Method the Commons proposed, would draw the Tryal into prodigious Length; urging, that it would be a great Hardship upon a Peer, who had already undergone so long a Confinement; to appear every Day at their Bar like a Traitor, and be, at last, found guilty only of High Crimes and Misdemeanors; and therefore he moved, That the Commons be not admitted to proceed, in order to make good the Articles against *Robert Earl of Oxford* and *Earl Mortimer* for High Crimes and Misdemeanours, till Judgment be first given upon the Articles for High-Treason.' The Lord *Harcourt* was seconded by Lord *Trevor*, and the Earls of *Anglesea* and *Nottingham*: But Lord *Parker* (b) answered them, 'That in all Courts of Judicature, it is the usual and constant Method to go through all the Evidence before Judgment be given upon any Part of the Accusation: That tho' the House of Peers be the supreme Court of the Kingdom, yet it has ever a Regard to the Rules of Equity, and even to the Forms observed in the Courts below: And as for the Prisoner's appearing in the abject Condition of a Traitor, it was but a Piece of Formality which did him no Manner of Hurt, and to which Persons of the highest Rank had ever submitted, in order to clear their Innocence.' The Earl of *Sunderland*, Lord *Coningsby*, (c) and Lord *Cadogan* (d) spoke on the same Side; but the

(a) Chief Justice of Chester, appointed Master of the Rolls, May 26, 1717.

(b) Created Baron Parker, March 9, 1715-16, Viscount Ewelme and Earl of Macclesfield, Nov. 5, 1721, He was appointed Lord High Chancellor of Great Britain, May 12, 1718, but resigned, Jan. 4, 1724-25.

(c) Created Baron Coningsby, April 30, 1719, of Great Britain, being before a Baron of Ireland.

(d) Created a Baron June 25, 1716, Viscount Caversham, and Earl of Cadogan, April 7, 1718; appointed General and Commander in Chief of the King's Forces in Scotland, and Governor of Minorca in June 1716, in the Room of the Duke of Argyle, who at that Time resigned all his Places.

the Dukes of *Buckingham* and *Argyle*, the Earl of *Illy*(a), the Bishop of *Rocheſter*, Lord *North* and *Grey*, and Lord *Townſhend* having ſtrenuouſly ſupported the Lord *Harcourt*'s Motion, the ſame was carry'd in the Affirmative by 88. Voices againſt 56.

Anno 3. Geo. 1.
1717.

D. of Bucking-
ham.

D. of Argyle.

E. of Illy.

Bp of Rocheſter.

Ld North and

Grey.

Ld Townſhend.

The Lords being gone down again to *Weſtminſter-Hall*, ſent a Meſſage to the Commons to acquaint them therewith; upon which the Commons, in a Committee of the whole Houſe, return'd alſo to *Weſtminſter-Hall*, where the Lord High-Steward acquainted the Managers with their Lordſhips Reſolution. Hereupon Sir *William Thompſon* (b), one of the Managers for the Commons, acquainted their Lordſhips, that they conceived it to be ſo much the undoubted Right of the Commons to proceed in their own Method, in Maintenance of the Articles exhibited by them, and did apprehend that this Reſolution of their Lordſhips might be of ſo fatal Conſequence to the Rights and Privileges of all the Commons of *Great Britain*; that they could not take upon them to proceed any farther, without reſorting to the Houſe of Commons for their Direction therein. Upon this the Lords and Commons went up to their reſpective Houſes.

The Lords re-
ſolve that the
Commons pro-
ceed firſt to make
good the Arti-
cles of High
Treaſon.

June 25. The Lords ſent a Meſſage to the Commons, to acquaint them, That their Lordſhips had order'd *Robert Earl of Oxford* and *Earl Mortimer* to be brought to the Bar of their Houſe in *Weſtminſter-Hall*, that Day at Eleven in the Forenoon. Hereupon the Commons reſolv'd, *Nem. Con.* ' That a Meſſage be ſent to the Lords, acquainting their Lordſhips, that the Commons have taken into their Conſideration their Lordſhips Reſolution; communicated to their Managers, relating to the Proceedings on the Tryal of *Robert Earl of Oxford* and *Earl Mortimer*; and being deſirous to preſerve a good Correſpondence between the two Houſes, have appointed a Committee to ſearch Precedents upon a Matter of this great Importance, and deſire that their Lordſhips will not proceed at the Time appointed.' Mr *Carter* (c), who was order'd to carry this Meſſage, being return'd, reported, ' That the Lords having taken the ſame into Conſideration, agreed not to proceed on the Tryal of the ſaid Earl at the Time appointed, but to proceed farther on the ſaid Tryal on the 28th at Eleven in the Forenoon.'

The Earl of Ox-
ford's Tryal put
off to the 28th
of June.

On the 27th of *June*, the Lord *Morpeth* (d) was ſent from
1717. I the

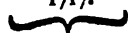
(a) Appointed Lord Register of Scotland in October 1714, but reſigned in June 1716.

(b) Solicitor General to the King.

(c) Appointed Attorney General to the Prince of Wales in this Seſſion; and made a Baron of the Exchequer, Nov. 4, 1726.

(d) Heir Apparent of Charles Earl of Carlisle.

Anno 3. Geo. I.
1717.



the Commons to desire a Conference with the Lords, which their Lordships having agreed to, and appointed the same presently in the *Painted Chamber*, the Managers of the Commons went thither, and deliver'd to the Lords, the Commons Reasons against their Lordships Resolutions.

The same Day the Duke of *Kingston* † reported to the House of Lords, that they had been at the Conference, and met Mr *Carter* and other Managers for the Commons, who delivered to their Lordships a Paper, as follows :

The Duke of Kingston reports the Commons Reasons against the Lords Resolution communicated at a Conference.

THE Commons having taken into their Consideration your Lordships Resolution communicated to their Managers, relating to the Proceedings on the Tryal of *Robert Earl of Oxford* and *Earl Mortimer*, and being desirous, as far as in them lies, to maintain a good Correspondence with your Lordships, have desired this Conference : And have commanded us to acquaint your Lordships, that they conceive it to be the undoubted Right of the Commons, to impeach a Peer, either for High Treason, or for High Crimes and Misdemeanors, or, if they see Occasion, to mix both the one and the other in the same Accusation.

The Impeachment preferred against *Robert Earl of Oxford* and *Earl Mortimer* is one continued Accusation, consisting of High Crimes and Misdemeanors, and also of Charges of High Treason. The Facts on which the Articles preceding those of High Treason are grounded, are laid together in order of Time, and follow one another successively, in the Manner they were committed.

As the Commons thought this the most natural Method for exhibiting the several Articles against the said Earl, they were of Opinion, that they should proceed in the Proof of these several Facts, after the same Method ; since it is manifest, that in laying open the Course of such a wicked Administration, the preceding Parts of it give Light to those which follow ; and that the Proof of the several Articles of High Crimes and Misdemeanors, would naturally lead to the Proof of those of High Treason.

Your Lordships received these several Articles of Impeachment, without making any Exception against the Form in which they were exhibited. The said Earl made his Answer to them in the same Order, and has no where insisted to be tryed in any other Method ; so that the Commons are surprized to find a Stop put to their Prosecution

† Appointed Lord Privy Seal, Dec. 14, 1716, in the Room of Charles Earl of Sunderland.

Profecution by an Objection, which has never been started Anno 3. Geo. I.
by the said Earl, and which your Lordships had given 1727.
them so little Reason to expect.

To this must be added, that as the Commons only are Masters of the Evidence, and as upon that Account they are best able to determine, what to charge first, and what next; so they are most proper to determine in what Method to proceed for the Advantage of the Prosecution, in the Event of which all the Commons of *Great Britain* are so highly concerned.

To which they farther add, That they see no Reason but that your Lordships may as well invert the whole Order of the Articles, as prescribe to the Commons those particular Articles on which they are first to proceed, which will necessarily produce such a Confusion, both in the Facts and Evidence, as is by no Means consistent with that Clearness and Perspicuity, in which the Commons think this Affair ought to appear.

The Commons, upon examining Precedents, do find divers Precedents of Impeachments for High Treason, and other High Crimes and Misdemeanors, in the same Accusation; and do not find that the Lords ever objected to such Proceeding, or ever gave Judgment upon any particular Article of Impeachment, before the Commons had gone through, and concluded their Evidence upon all the Articles, or so many of them as they thought fit: And the Commons are at as great a Loss to conceive what Arguments, or Precedents, can be brought to support the Resolution of your Lordships, to give Judgment upon one Part of the same Accusation, reserving the other Part for a subsequent Tryal, as they are to know what your Lordships mean, by admitting the Commons to proceed upon the Articles of High Crimes and Misdemeanors, after the Judgment is given upon the Articles for High Treason, supposing the Judgment proper for High-Treason should be given against the said Earl.

For these Reasons, the Commons assert it as their undoubted Right, to proceed on the Tryal of *Robert Earl of Oxford* and *Earl Mortimer*, after the Method in which their Managers were proceeding, when interrupted by your Lordships Resolution.

The Lords having, the same Afternoon, taken into Consideration what was offer'd to them by the Commons at the said Conference, it was moved, and the Question put, That their Lordships do adhere to their Resolution, Not to admit the Commons to proceed, to make good the Articles for High Crimes and Misdemeanours, till Judgment

The Lords resolve to adhere to their former Resolution.

Anno 3. Geo. I.

1717.

ment be first given upon the Articles for High Treason ; which was carried in the Affirmative. Then another Motion was made, and the Question put, ' That the Lords do give to the Commons the Reasons for their Lordships adhering to their former Resolution : ' This was also carried in the Affirmative ; and a Committee of Lords was appointed to draw up the said Reasons ; notwithstanding the Opposition made thereto by the Lord *Harcourt*, and other Peers ; who urged, ' That such a Condescension was derogatory to the Prerogatives of the Peerage. '

June 28, The Lords sent a Message to the Commons, desiring them to continue sitting for some Time ; with which the Commons having readily comply'd, another Message was, soon after, sent to them from the Lords, to desire a present Conference in the *Painted Chamber*, upon the Subject Matter of the last Conference. The Commons agreed also to this Conference, wherein the Lords deliver'd their Reasons, for adhering to their Resolution, to the Managers of the Commons.

The Lords Reasons in Support of their Resolution.

THEIR Lordships, in order to preserve a good Correspondence with the House of Commons, (which they shall always endeavour to do as far as lies in their Power) have desired this Conference upon the Subject Matter of the last Conference : And have directed us to acquaint you, that their Lordships judge it a Right inherent in every Court of Justice, to order and direct such Methods of Proceeding, as such Court shall think fit to be observed in all Causes depending before them, which can have no Influence to the Prejudice of Justice ; and where such Methods of Proceeding are not otherwise settled by any positive Rule. The Power of Judicature, on all Impeachments, being a Right unquestionably inherent in their Lordships, and it not being determined by any positive Rule, whether the House of Commons may proceed to make good the several Articles exhibited for Misdemeanours, in such Order as they shall think fit, before they proceed to make good the Articles exhibited for High-Treason ; and there being no Precedent where the Commons, upon the Tryal of any such Impeachment, attempted to proceed in the first Place, to make good any of the Articles contained in such Impeachment for High Crimes and Misdemeanours ; their Lordships, considering the Nature of the Impeachment now depending before them, and the Method wherein the Managers for the House of Commons were beginning to proceed upon the Tryal, to make good the first Article thereof, which is a Charge for

for High Crimes and Misdemeanours only ; and also considering the very different Methods of proceeding on an Impeachment of a Peer for High-Treason, as well before as upon the Tryal thereof, and the Circumstances attending such a Tryal, thought themselves obliged to come to the Resolution communicated to the Commons on the 24th Instant, as well for doing Justice in the Case depending before them, as for the preventing a new Precedent to be made on this Tryal ; in Consequence whereof, a new and unjustifiable Form of proceeding against a Peer, upon an Impeachment for High-Treason and High Crimes, might be introduced at his Tryal upon those Articles in which he is charged for High Crimes and Misdemeanours only ; to the Prejudice of the Peerage of Great Britain in all Time to come, *viz.* The trying a Peer on Articles for High Crimes and Misdemeanours without the Bar, the detaining in Custody a Peer so accus'd, and repeated Commitments of him to the Tower, during the Time of such Tryal, and subjecting a Peer to as ignominious Circumstances on his Tryal on Articles for Misdemeanours, as if he was then on his Tryal on Articles for High-Treason ; Whereas a Peer on his Tryal on Articles for Misdemeanours only, ought not to be deprived of his Liberty, nor sequestered from Parliament, and is intitled to the Privilege of sitting within the Bar during the whole Time of his Tryal : In all which Particulars the known Rule of Proceedings in such Cases may be evaded, should a Peer be brought to his Tryal on several Articles exhibited against him for High Crimes and Misdemeanours, and for High-Treason mixed together, and the Commons be admitted to proceed to make good the Articles for High Crimes and Misdemeanours, before Judgment be given upon the Articles for High-Treason. Their Lordships have fully considered the Matters offered to them by the House of Commons at the last Conference, relating to the Proceedings against Robert Earl of Oxford and Earl Mortimer ; and their Lordships are fully satisfy'd, that the Resolution they have taken and communicated to the Commons on the 24th Instant, is just and reasonable ; and that the House of Commons are not put under any real Inconvenience thereby, in carrying on their present Prosecution. Their Lordships have commanded us to let you know, that they do insist on their said Resolution, *viz.* That the Commons be not admitted to proceed in order to make good the Articles against Robert Earl of Oxford and Earl Mortimer, for High Crimes and Misdemeanours, till Judgment be first given upon the Articles for High-Treason.

Anno 3. Geo. 1.

1717.

Anno 3. Geo. I.
1717.

A Free Conference thereupon desir'd by the Commons,

Which is refus'd by the Lords.

Mr Carter having reported the above Reasons to the House of Commons, they resolv'd to take them immediately into Consideration. Then a Message was sent from the Lords, to acquaint the Commons, That they had order'd the Earl of Oxford to be brought to the Bar of their House in *Westminster-Hall*, at Eleven the next Morning, in order to proceed farther on the Tryal of the said Earl. The Commons, thereupon sent Mr Yonge * to the Lords, to desire that their Lordships would continue sitting for some Time, which the Lords having readily agreed to, the Commons took their Lordships Reasons into Consideration, and then resolv'd, ' That a Free Conference be desired with the Lords upon the Subject Matter of the last Conference.

June 29, The Lords took the Desire of the Commons, of a Free Conference, into Consideration; and, after a long Debate, it was resolv'd, That as the Subject Matter of the last Conference, concern'd a Point of Judicature determin'd by their Lordships after the Tryal began, their Lordships did not think fit to give a Free Conference on the Subject Matter of the said Conference, as was desired by the House of Commons.

The Lords would have sent that Evening a Message to the Commons, to acquaint them with this Resolution: But the Commons having timely Notice of it, immediately adjourn'd till the first of July. The Lords having on that Day sent a Message to the Commons, to acquaint them with the said Resolution, and withal, That their Lordships had order'd Robert Earl of Oxford and Earl Mortimer, to be brought to the Bar of their House in *Westminster-Hall* that very Monday at eleven in the Forenoon, in order to proceed farther on the Tryal of the said Earl; the Commons thereupon order'd the Serjeant at Arms to summon their Members, which done, it was resolv'd, *Nem. Con.* That a Conference be desired with the Lords upon the Subject Matter of their Lordships Message, relating to the Free Conference desired by this House; and it was order'd that the Managers immediately do draw up Reasons to be offered to the Lords at the said Conference. At the same Time a Message was sent from the Commons to the Lords, by Mr Gibbon, to desire their Lordships to defer their going into *Westminster-Hall* for some Time; and Mr Carter having, from the Managers, reported the Reasons by them drawn up, the same were agreed to, and Mr Craggs † was sent to the Lords

* A Commissioner for stating the Debts due to the Army; made Knight of the Bath in 1725, and Commissioner of the Admiralty, then a Commissioner of the Treasury, now Secretary at War.

† Appointed Principal Secretary of State, March 14, 1717-18.

Lords to defer the said Conference. Some Time after Mr *Anno 3. Geo. 1.*
Gibbon reported, That the Lords would defer going into
Westminster-Hall for a while, as was desired by the Com-
 mons; and Mr *Craggs* reported also, That their Lordships
 agreed to a Conference, and had appointed the same pre-
 sently in the *Painted Chamber*. Hereupon the Managers of
 the Commons went to the said Conference, and being return-
 ed, Mr *Carter* reported, that they had delivered the Rea-
 sons directed by the House to the Lords, as follows :

THE Commons having taken into Consideration your
 Lordships Message, viz. That your Lordships did
 not think fit to give a Free Conference on the Subject Mat-
 ter of the last Conference, as was desired by the Com-
 mons; and they being still desirous, to the utmost of their
 Power, to preserve a good Correspondence with your
 Lordships, have asked this Conference; and have com-
 manded us to acquaint your Lordships, that they are very
 much surpris'd to find your Lordships deny a Free Confe-
 rence, after your Lordships have already agreed to a Con-
 ference desired by the Commons on the same Subject Mat-
 ter; and after your Lordships have on your Parts also desir-
 ed a Conference upon the same Subject : That Free Con-
 ferences are the most antient and established Methods, for
 adjusting the Differences that have at any Time arisen be-
 tween the two Houses, and, as the Commons conceive, is
 the only Method to preserve a good Correspondence between
 them on such Occasions, which at this Time, is of the
 highest Importance, because a Misunderstanding on this
 Account would tend to defeat the Tryal of the Impeach-
 ment of the Commons : That the Commons conceive
 clearly, that the Subject Matter of the last Conference
 is not a Point of Judicature, but a Point relating only to
 the Prosecution of the Commons, it having arisen before
 any Matter of Judgment had come before your Lordships
 upon the Tryal; for which Reasons the Commons conceive,
 that your Lordships ought not to have denied them a Free
 Conference upon the Subject Matter of the last Confe-
 rence.

Then a Message was sent to the Commons from the
 Lords, That their Lordships desired the Commons to con-
 tinue sitting for some Time; which being readily granted,
 another Message was sent soon after from the Lords, to de-
 sire a present Conference with the Commons in the *Painted
 Chamber*, upon the Subject Matter of the last Conference.
 Accordingly the Managers of the Commons came to the

Which the Lords
 insist upon refus-
 ing.

Anno 3. Geo. I.
1727.

The Lords proceed upon the Earl of Oxford's Tryal, and the Commons not appearing; he is acquitted unanimously.

Lords Committees, who informed them, that the Lords did insist upon denying a Free Conference. Then another Message was sent from the Lords to acquaint the Commons, that their Lordships intended presently to proceed farther to the Tryal of the Earl of Oxford, of which the Commons took no Notice.

About Seven in the Evening, the Lords went down to *Westminster-Hall*, where Three several Proclamations were made for the Accusers of the Earl of Oxford to appear, and make good the Articles of Impeachment against him. The Commons not appearing, their Lordships went back to their own House, where the Lord High Steward said;

My Lords,

' I shall now state the Question, upon which your Lordships are to give your Votes ; it is this, ' That *Robert Earl of Oxford and Mortimer* be acquitted of the Articles of ' Impeachment, exhibited against him by the House of Commons, for High-Treason, and other High Crimes and Misdemeanors, and of all Things therein contained, and that ' the said Impeachment be dismissed.' And then the Lord High Steward put the Question to the Lords present, beginning at the youngest Baron, in Manner following,

My Lord, your Lordship has heard the Question stated, what says your Lordship, is your Lordship content, or not content ?

The Lords present, who were all Content, are as follows :

Names of the
Lords present at
the Tryal.

BARONS. *Newburgh, Parker, Cobham, Carleton, Bingley, Bathurst, Foley, Mafham, Lansdowne, Trevor, Middleton, Mansel, Montjoy (Viscount Windsor of Ireland), Hay (Earl of Kinnoul in Scotland), Boyle (Earl of Orrery in Ireland), Harcourt, Belhaven, Gower, Haverham, Herbert, Ashburnham, Guilford, Stawell, Carteret, Lumley, Osborne (Marquis of Caermarthen), Cornwallis, Berkeley of Stratton, Leigh, Bruce, Teynham, Compton, St John, Hunsdon, North and Grey, Willoughby de Broke, Fitzwalter, Delawar, Willoughby of Eresby, Abergawenny.*

BISHOPS. *St Asaph (a), Chester (b), Bristol (c), Rochester (d), St Davids (e), Hereford (f), Landaff (g), Bath and Wells (h), Carlisle (i), Litchfield and Coventry (k), Winchester (l), London (m).*

VISCOUNTS

(a) Dr John Wynn. (b) Dr Francis Gastrell. (c) Dr George Samuel-ridge. (d) Dr Francis Atterbury. (e) Dr Adam Ottley. (f) Dr Philip Bisse. (g) Dr John Tyler. (h) Dr George Hooper. (i) Dr William Nicholson. (k) Dr John Hough. (l) Sir Jonathan Trelawny, Bart. (m) Dr John Robinson.

VISCOUNTS. *Castleton, Tadcaster (Earl of Tbo- mond in Ireland), Lonsdale, Longueville, Townshend, Say and Seal, Hereford.* Anno 3. Geo. I.
1717.

EARLS. *Halifax, Bristol, Caernarvon, Uxbridge, Dartmouth, Strassford, Ferrers, Ilay, Delorains, Orkney, Loudon, Buchan, Cholmondeley, Poulet, Greenwich (Duke of Argyle), Rochford, Plymouth, Abingdon, Rochester, Litchfield, Burlington, Carlisle, Anglesea, Cardigan, Clarendon, Scarfsdale, Manchester, Northampton, Salisbury, Dorset, Pembroke, Derby.*

DUKES. *Portland, Ancafter, Rutland, Buckingham, Devonshire, Shrewsbury, St Albans, Grafton, Clouland and Southampton, Somerset, Kent, Kingston.*

ARCHBISHOPS. *York (n), Canterbury (o).*

Then the Lord High-Steward said, *My Lords, upon the Question stated, I am content.* After this his Grace added, *My Lords, Robert Earl of Oxford and Earl Mortimer is acquitted of the High Treason and other High Crimes and Misdemeanours wherewith he stands charged, by the unanimous Vote of all your Lordships here present.*

Though the Earl of Oxford was acquitted by his Peers, yet the Resentment of the Commons did not end here, as appears by the * farther Proceedings of that House against his Lordship.

July 15. The Earl of Sunderland delivered to the House of Lords, *An Act for the King's most gracious, general, and free Pardon*, which, about Three in the Afternoon, their Lordships sent down to the Commons with a Message, importing, 'That the Lords had accepted and passed the same, *Nem. Con.*' The Commons having read the said Act, passed it also *Nem. Con.* and sent it back to the Lords: But an Exception being taken at the particular Form of the Message with which this Act was sent down, viz. the Mentioning of the Words *Nemine Contradicente*, instead of the common Expression, *That the Lords had agreed to it, and desired the Concurrence of the Commons*: A Committee was thereupon appointed to search Precedents, and to prepare Reasons to be offered to the Lords at a Conference, upon their Lordships Message. Mr † *Lachmere* having reported the said Reasons, the same were agreed to, and, at a Conference, delivered to

Act of Grace sent to the House of Lords, and from thence to the Commons.
Exceptions to the Lords Message.

K

the

1717.

(*) Dr John Sharp. (o) Dr William Wake.

* See CHANDLER's History of the House of Commons, Anno 1717; p. 146.

† Made Solicitor General Oct. 9; 1714. Attorney General March 14; 1717-18. Chancellor of the Duchy of Lancaster, June 12, 1717; and created a Baron, Aug. 25, 1721, and P. C.

Anno 4. Geo. I.
1717.

Conferences be-
tween the two
Houses there-
upon.

The End of the
the Second Ses-
sion.

the Lords ; who, at a second Conference, delivered to the Managers of the Commons their Reasons for insisting on the Form of their Message. The Commons having taken their Lordships Reasons into Consideration, order'd, That the Committee who manag'd the last Conference, withdraw immediately into the Speaker's Chamber, to search Precedents, and prepare Reasons to be offered to the Lords at a Conference, upon the Subject Matter of the last Conference ; which Reasons Mr *Lechmere* having soon after reported, the same were agreed to, and Mr *Boscauven* † was ordered to go to the Lords to desire another Conference. While this was in Agitation, the King came to the House of Peers, and a Message was sent to the Commons, commanding them to attend his Majesty immediately, which they did accordingly. His Majesty, having given the Royal Assent to several publick and private Bills, made a Speech to both Houses ‡, and put an End to the Session.



The THIRD SESSION of the FIRST PARLIAMENT of King GEORGE I.

ON the 21st of *November*, the King having open'd the Session with a Speech † to the Parliament ; and his Majesty being retired, the Lords voted an Address of Thanks, and the next Day, waited on the King with the same as follows :

Most Gracious Sovereign,

An Address of
Thanks for his
Majesty's Speech
at opening the
Third Session.

WE your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, do return your Majesty our humble Thanks for your most gracious Speech from the Throne, and for your Regard to the Conveniency of your Subjects, in meeting them so early in Parliament ; and beg Leave to express to your Majesty the just Sense we have of your great Concern for the Ease of your People, in disbanding so considerable a Number of your Forces, and of your Care, at the same Time, in consulting their Safety. We return your Majesty our most humble Thanks for your unwear'd Endeavours and Application towards preserving and settling the Peace and Tranquility of *Europe*; and of these
your

† One of the Vice-Treasurers and Paymasters General of Ireland, F. C. created Lord Viscount Falmouth, June 8. 1720.

‡ See the Speech in CHANDLER'S *History of the Commons*. P. 150.

' your Kingdoms, against the many Attempts of all Kinds Anno 4. Geo. 1.
 ' to disturb them ; and cannot sufficiently express our Sa- 1717.
 ' tisfaction, that there is a Prospect of Success : And do
 ' assure your Majesty, That as you have been pleased, in
 ' so gracious a Manner, to declare your Interests and those
 ' of your People inseparable ; so nothing shall be wanting
 ' on our Parts, at this critical Juncture, towards supporting
 ' your Majesty with the utmost Zeal and Vigour, till your
 ' Majesty's Endeavours for the Quiet of Christendom, and
 ' the Good of your People, have had their full and desired
 ' Effect.

' We have a grateful Sense of your Majesty's Concern
 ' for the Protestant Religion, and the Church of *England*
 ' as by Law established ; which, as it has always been the
 ' Chief of the Protestant Churches, so it can never be so
 ' well supported, as by strengthening and uniting (as far as
 ' may be) the Protestant Interest.'

To which his Majesty return'd the following Answer :

My Lords,

" I Thank you for this dutiful and loyal Address. The The King's An-
 " Zeal you express for the Support of my Government, swer thereto.
 " cannot but have the best Effect upon our Affairs both at
 " Home and Abroad."

On the 16th of *January*, the Parliament being met a-
 gain, after a short Adjournment, the Prince of *Wales* went
 to the House of Peers, which being very full, the Lord
North and Grey stood up, and took Notice of the great Lord North and
 Ferment that was in the Nation by the great Scarcity of Grey takes No-
 Silver, which occasion'd a general Stop to Trade, and very tice of the great
 much distressed the Poor ; upon which, the Lords resolv'd Scarcity of Sil-
 to take that Matter into Consideration. ver.

Since the Beginning of this Session the House of Peers
 had been mostly engag'd in hearing Causes ; but on the
 23d of *January* their Lordships, in a grand Committee, Debate thereon.
 took into Consideration the State of the Nation, in relation
 to the Gold and Silver Coin. The Lord *Bingley*, * having Ld Bingley.
 represented the great Prejudice that Trade received from
 the Scarcity of Silver, said, ' It was Matter of Wonder, a
 Remedy had not seasonably been apply'd to so great an
 Evil, which had visibly been growing for so many Months
 past.' To this Lord *Stanhope* answer'd, ' That the Ld Stanhope,
 Scarcity of Silver Species was owing to the encreasing
 1717. K 2 Luxury,

* Chancellor and Under-Treasurer of the Exchequer in the latter End
 of the Reign of Queen Anne.

Anno 4. Geo. I. Luxury, in relation to Silver Plate ; to the vast Exports of Bullion and other Plate to the *East-Indies* ; and, to the clandestine Trade lately carried on of exporting Silver and importing Gold to and from *Holland, Germany*, and other Parts. To prove this his Lordship produced several Papers, whereby it appear'd, that in the Year 1717, the *East-India* Company had exported near three Millions of Ounces of Silver ; which far exceeding the Imports of Bullion in that Year, it necessarily follow'd, that vast Quantities of Silver Species must have been melted down, both to make up that Export, and to supply Silvermiths.' His Lordship added, ' That it was impossible for those in the Administration to remedy this Evil, without the Interposition of the Parliament ; and as for the Trade of exporting Silver and importing Gold in lieu of it, which encreased the Scarcity of the first, the most effectual Method that could be thought of to prevent it, had already been used, viz. the lowering the Price of Gold, which would not have fail'd to have, in a great Measure, produced the desired Effect, but for the Covetousness of some, or the Malice of others, who, by hoarding up Silver, thought either to make considerable Gains, or to distress the Government : So that, no Fault could be found, upon this Score, with the Managers of his Majesty's Treasury ; but that, on the contrary, it might, to their Praise, be observ'd, That the publick Credit never ran so high, since the Government could now borrow great Sums at $3\frac{1}{2}$ per Cent. The Earl of Oxford answer'd Lord Stanhope, and made some Reflections, which the other return'd very smartly. Then the farther Consideration of that Matter being put off till the 25th of *January*, it was on that Day resolv'd, that no Alteration be made in the Standard of the Gold and Silver Coins of this Kingdom, in Fineness, Weight or Denomination ; which Resolution was, on the 27th of *January*, reported and agreed to by the House. The next Day their Lordship's refus'd the Consideration of that Affair ; and after having examin'd the Officers of the Mint, and the Master and Wardens of the Goldsmiths Company, order'd a Bill to be brought in, *To prevent the melting down of the Silver Species.*

1717-18.

E. of Oxford,
Ld Stanhope.

Debate on a Bill
for punishing
Mutiny and De-
sertion.
Ld Stanhope,

D. of Argyle,

February 12, An engrossed Bill from the Commons, for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters, being read the first Time, Lord Stanhope said, ' That he wish'd the same might be thoroughly canvass'd and examin'd in a full House ; for he was not like some Persons that chang'd their Opinions according as they were in or out of Place.' The Duke of Argyle taking this Reflection to be levell'd against him, smartly answer'd,

answer'd, ' That for his own Part, he follow'd the Ministry Anno 4. Geo. 1.
1717-18. when he thought they were in the Right; but went a contrary Way, if he thought they went astray.' This Skirmish being over, the second Reading of the Bill was put off till the *Tuesday* following: And the next Day it was resolv'd to address his Majesty, that the Articles of War, and other Papers relating to the Discipline and Payment of the Army, might be laid before the House.

On the 18th of *February* the said Bill was, according to Order, read a second Time, in a very full House; and a Motion being made, That the Bill be committed to a Committee of the whole House; the same occasioned a great Debate. The Earl of *Oxford* spoke first, and said, ' That E. of Oxford, as long as he had Breath, he would speak for the Liberties of his Country; and that he was not only against this Bill, because he thought a Martial Court inconsistent with the Rights and Privileges of *Englishmen*, but also against the keeping up so great a Number of Forces; which being altogether useless in a Time of profound Peace, could not but raise just Apprehensions, that something was intended against our happy and ancient Constitution.' The Lord *Stanhope* Ld Stanhope, answer'd, ' That the Nation has the Happiness to be govern'd by a Prince, who, since his Accession to the Throne, has convinced every Body, that he desires no more Troops than what are absolutely necessary for the Safety and Tranquility of his Dominions: That whoever will impartially consider the present Circumstances of Affairs, must own, that the Number of Troops that are kept on Foot is very small: That it cannot be denied, that the Pretender has a great many Friends both at Home and Abroad, who watch all Opportunities to foment and take Advantage of our intestine Divisions: That, on the other Hand, *Great Britain* stands Guarantee for the Neutrality of *Italy*, which is now threaten'd with an Invasion; and therefore it was Matter of Prudence, as well as of Necessity, to keep up a competent Force, both to suppress any Insurrection at Home, or to repel any Insult from Abroad; and to make good our Engagements for maintaining the Repose of *Europe*.' Hereupon the Earl of *Strafford* E. of Strafford, said, ' He was surprized to hear that so great a Minister as the Lord who spoke last, was not better acquainted with some Matters of Fact; but that he thought himself obliged to inform the House, That by the Treaty concluded and signed at *Utrecht* in *March* 1713, between the Ministers of *Great Britain* and *France*, the late Queen, of glorious Memory, was Guarantee for the Neutrality of *Italy*, and the Islands in the *Mediterranean*, only during the Evacuation of *Catalonia*, and till the Conclusion of a general Peace.' For the Truth

Anno 4. Geo. 3.
1777-18.

Ld North and
Grey.

D. of Argyle.

Ld Cadogan.

D. of Bucking-
ham.

Ld Trevor.

Ld Bingley.

E. of Anglesea.

D. of Argyle.

E. Poulet.

Ld North and
Grey.

D. of Bucking-
ham.

E. of Cholmon-
deley.

Ld Harcourt.

Ld Townshend.

E. of Abingdon.

E. of Ilay.

Ld Stanhope.

E. of Sunderland.

Ld Onslow.

D. of Newcastle.

Ld Coningsby.

Ld Cowper.

Ld Cadogan.

Ld Carteret.

of which, his Lordship appeal'd to his Colleague in that Negociation, the Lord Bishop of *London*. He added, ' That since that Time, the State of Things was quite alter'd, and those in the Ministry could best tell, what Engagements had been enter'd into, either with the Emperor or *France*.'

Hereupon the Lord *North and Grey* said, ' It were necessary to know the Contents of those new Treaties, and therefore moved to address his Majesty, that the same might be laid before the House : Which Address was agreed to, but was never presented. The Duke of *Argyle*, who back'd the Earl of *Oxford*, said, among other Things, ' That besides the 16,000 and odd Men of regular Troops, there was another considerable Body maintain'd under the Denomination of Invalids, and that they ought to inquire into their Numbers, and where they were quarter'd.' To which Lord *Cadogan* answer'd, ' He knew of no Invalids but such as were in *Chelsea* College, or in the Neighbourhood.' After this, upon a Motion of the Duke of *Buckingham*, that the Bill be committed to a Committee of the whole House the *Thursday* next ; it was carry'd without dividing.

Accordingly on that Day the Order of the Day was read, for the House to go into a Committee of the whole House upon the said Bill, but the Opposers of the Bill being apprehensive, that the Court-Party were stronger in Voices, and weaker in Proxies, (which are allowed only in a House) endeavoured to stave off the Bill before it went into a Committee. In order thereto the Lord *Trevor* moved, That it be an Instruction to the Committee of the whole House, to whom the said Bill was committed, ' That they do provide, That no Punishment shall be inflicted at any Court Martial, which shall extend to Life or Limb.' Lord *Trevor* was answered by the Lord *Stanhope*, ' That such a Clause would render the Bill ineffectual, banish all Manner of Discipline from the Army, and consequently render it entirely useless.' Thereupon there arose a warm Debate, which lasted from Two till Seven in the Evening ; in which Lord *Trevor*, Lord *Bingley*, Earl of *Anglesea*, Duke of *Argyle*, Earl *Poulet*, Lord *North and Grey*, Duke of *Buckingham*, Earl of *Cholmondeley*, Lord *Harcourt*, Lord *Townshend*, Earl of *Abingdon*, and Earl of *Ilay* spoke against the Bill ; Lord *Stanhope*, Earl of *Sunderland*, Lord *Onslow* (a), Duke of *Newcastle*, Lord *Coningsby*, Lord *Cowper*, Lord *Cadogan*, and Lord *Carteret* (b) for it.

The Earl of *Anglesea* endeavoured to shew, ' That so numerous a Force as was allowed by this Bill to be maintain-
ed

(a) One of the Tellers of the Exchequer.

(b) One of the Lords of the Bed-Chamber.

ed in Time of Peace, was not only dangerous in itself to a free Nation, but was yet render'd more dangerous, by their being govern'd by Martial Law, a Law unknown to our Constitution, destructive of our Liberties, and not endur'd by our Ancestors.' His Lordship was answer'd by the Earl of *Sunderland*, who urged, ' That among the ancient *Romans*, the wisest People in the World, and the greatest Lovers and Assertors of publick Liberty, Martial Laws and Discipline were invigorated by Decrees of the Senate, and were in Force in Times of Peace as well as in Times of War.' To this the Duke of *Argyle* reply'd, ' That it was much better to attend domestick than foreign Examples ;' and then shewed by several Instances drawn from the History of *Great Britain*, ' That a standing Army in the Time of Peace, was ever fatal, either to the Prince, or to the Nation.' The Lord *Onslow* said thereupon, ' That those who are vested with the Legislative Power ought not, on all Occasions, to govern themselves by Precedents, but rather by the present Situation of Affairs, because 'tis very difficult to find Examples perfectly agreeing with the various Circumstances of Times : That, in his Opinion, the Number of Troops which the Commons had thought fit to keep standing, was absolutely necessary for the Security and Safety both of the Government and Nation ; and thereupon it was no less necessary to make a Law, to keep that Army within the Rules of Duty and Discipline, unless they would render useless those very Forces which must be own'd to be necessary.' The Earl *Poulet* enforced what had already been suggested, about the Danger of a standing Army made subject to Martial Law ; but the Duke of *Newcastle* maintain'd on the contrary, ' That the Forces now on Foot were necessary, both for the Support of the Government, and the Protection of our Allies ; that their Lordships ought to consider, that when the late Rebellion broke out, we had double the Number of regular Troops, and yet the Government was obliged, not only to send for some Regiments from *Ireland*, but also for a Body of auxiliary Troops from *Holland* ; and that since the said Forces were necessary, the Bill in Question, which was only to render them useful, was no less necessary.

Hereupon the Lord *North and Grey* said, ' That before the noble Peer who spoke last was born, he had seen the Time, when the Nation was in Danger of losing their Liberties by a Standing Army ;' and then his Lordship endeavour'd to shew, ' That the Power of Life and Death which by this Bill was given to a Court Martial, was unnecessary, unusual, and unjust.' It being then about Five in the Evening, the Duke of *Buckingham*

Anno 4. Geo. 1.
1717-18.

E. of Sunderland.

D. of Argyle.

Ld Onslow.

E. Poulet.

D. of Newcastle.

Ld North and Grey.

D. of Buckingham.

told

Anno 4. Geo. I.
1717-18.

Ld Harcourt.

‘That in his Opinion, a great deal of Time had been spent to little Purpose : For, if their Lordships would enter regularly upon the Merits of this Bill, they ought to be in a Committee, where every Lord would have an Opportunity to speak as often as he thought fit.’ Notwithstanding this, the Debate still continued, and the Lord *Harcourt* urged, ‘That the Parliament, which is the Representative of the whole Nation, were ever extream jealous of the Legislative Power, with which they are vested ; and that the Lords, in a particular Manner, ought to be tender of it, because ’tis a Branch of their Prerogative to be the Supream Court of Judicature ; but that by this Bill, whereby the King was enabled to establish Courts Martial, with Power to try and determine any Offences specified in the Articles of War, the Parliament vested a sole Legislative Power in the Crown, which was communicated and delegated to a Council of War : That this Bill sets aside all other Laws, both Civil and Ecclesiastical, in relation to the Soldier ; and gives Courts Martial a larger Jurisdiction than seem’d necessary for maintaining Discipline in the Army, such Jurisdiction extending not only to Mutiny, Desertion, and Breach of Duty, but also to all Immoralities, and other Offences, which might be committed by any Officer or Soldier, towards any of his Fellow-Subjects, whereby the Law of the Land might either be obstructed or superseded by a Court-Martial : That the Officers constituting a Court Martial did, at once, supply the Place of Judges and Jurymen, and ought therefore to be upon their Oath, upon their trying any Offence whatsoever ; whereas it is provided by this Bill, that that they shall be sworn upon their Trying such Offences only as are punishable by Death. That Martial Courts assume to themselves an arbitrary and unprecedented Authority, of which they had a fresh remarkable Instance, an Ensign of the Guards having been sentenced to Death without being heard, which was contrary to *Magna Charta*, and to the Birth-Rights and Privileges of *Englishmen* ; and therefore they ought to restrain so dangerous a Power.’

The Lord *Harcourt* was supported by Lord Viscount *Townshend*, but was opposed by the Lord *Coningsby*, and Lord *Cowper*. The latter said, ‘That he had maturely consider’d the Affair now in Agitation, not as a Person in a publick Station, but as a private unprejudic’d Man ; and that he was convinc’d in his Judgment and Conscience, that it is necessary both for the Support of the present happy Establishment, and the Security of the Nation, to keep up the Forces now on Foot : And that he was confirm’d in this Opinion, by considering what Thoughts the Pretender and his Friends had of this Matter, and reflecting, that they have

nothing more at Heart, than to procure the disbanding of those Forces that have suppress'd the late unnatural Rebellion : That he doubted not but the whole Nobility that made up that august Assembly, was inviolably attach'd to his Majesty-King *George* ; That his Majesty had also the best Part of the Landed, and all the Trading Interest ; That as to the Clergy, he would say nothing — but that 'twas notorious, that the Majority of the Populace had been poison'd, and that the Poison was not yet quite expell'd : That the Dangers which seem'd to be apprehended from the present Army, may be chimerical, or, at least, easily remedy'd in any subsequent Session of Parliament ; whereas the Dangers with which the Nation is threaten'd from the Pretender and his Friends, in case there were no Army to oppose them, are real; and the Mischiefs that might ensue, upon the Success of their Designs, irreparable : That if there had been such a standing Force as we now have, timely to suppress the Tumults and Riots which were rais'd soon after his Majesty's Accession to the Throne, in all Probability there had been no open Rebellion ; That, on the other Hand, if there had not been Troops ready at hand to assist the Civil Power, in suppressing the late riotous Assemblies of the Wooll-Combers and Weavers in the Counties of *Devon* and *Somerset*, there had, by this Time, been another Rebellion : That the mentioning *Magna Charta* was, in his Opinion, entirely foreign to the present Debate: That the Thing now in Question, and that wherein they were immediately concern'd, was to secure and support the Government and the Protestant Succession against vigilant, bold, and restless Enemies : And that they had the more Reason to be upon their Guard, in that the Trumpeters of Sedition and Rebellion had again forcibly intruded into several Pulpits in *Scotland*. The Earl of *Abingdon* answer'd this E. of Abingdon.

Anno 4. Geo. I.
1717-18.

Speech, and the Lord *Cadogan* having spoken on the contrary Side, the Earl of *Ilay*, with great Eloquence and Solidity supported the Lord *Trevor*'s Motion, and endeavour'd to shew, ' That a Standing Army in Time of Peace, would rather increase than lessen the Enemies of the Government.' The Lord *Carteret* replied to him with great Vivacity : After which the Question was put upon the said Motion, and carry'd in the Negative, viz.

Not Content 76 }
Proxies 15 } 91

Content 52 }
Proxies 25 } 77

Protest on rejecting a Clause for providing, That no Punishment, by a Court Martial, shall extend to Life or Limb.

Hereupon the following Protest was enter'd.

Dissentient

I. Because the Exercise of Martial Law, in Time of Peace, with such Power as is given by this Bill to inflict Punishment.

1717-18.

L

Anno 4. Geo. I. 1717-18. nishments extending to Life and Limb, was not in the first Year of this Reign, nor hath in any former Reign been al-

lowed within this Kingdom by Consent of Parliament, but hath, upon many Attempts made to introduce such a Power, been opposed and condemned by Parliament, as repugnant to *Magna Charta*, and inconsistent with the Fundamental Rights and Liberties of a free People.

II. Because, after the Peace of *Ryswick*, and that of *Utrecht*, in the several Reigns of King *William* and Queen *Anne*, of glorious and ever blessed Memories, no such Power was given to any Court-Martial; and it is well known, that the Forces then continued on Foot were kept in exact Discipline and Order.

III. Because it is not ascertained, either by this Bill, or by any other known Law or Rule, what Words or Facts amount to Mutiny or Desertion, or to an exciting, causing or joining in Mutiny; and consequently the Judges in a Court-Martial have it in their Power to declare what Words or Facts they think fit to be Mutiny or Desertion, and to take away the Life of any Officer or Soldier, by such an arbitrary Decision.

IV. Because, should Death be thought the proper Punishment, in Time of Peace, for Mutiny or Desertion, or even for the least Disobedience to any lawful Command, yet, as we conceive, the Nature of such Offences ought first to have been ascertained by this Bill, and the said Offences being declared Capital, the Tryal thereof ought to have been left to the ordinary Course of Law; in consequence whereof, the Officers and Soldiers would, upon such Tryals, have been intitled to all those valuable Privileges which are the Birth-right of every *Briton*; nor doth it appear to us, that any Inconvenience could thereby have arisen to the Publick in Time of Peace, at least, not any such as can justify our depriving the Soldiery of those legal Rights, which belong to the meanest of their Fellow-Subjects, and even to the vilest of Malefactors.

W. Ebor', Willoughby de Broke, Rutland, Masbam, Harcourt, Bingley, Fr. Raffen', Greenwich, Abingdon, Castleton, Devonshire, Hay, Berkeley of Stratton, Geo. Bristol, Deloraine, Bristol, Lumley, Dartmouth, P. Hereford, Weslon. Oxford, Northampton, Joh. London, Poult., Scarfsdale, Gower, Bowle, Compton, Belhaven, Tadcaster, Bute, Trevor, Foley, Mansell, Fr. Cestriens', Strafford, Townsbend, Montjoy, Guilford, Bathurst, North and Grey.

Then

Then a Motion being made, and the Question put, That ^{Anno 4. Geo. I.} it be an Instruction to the said Committee of the whole ^{1717-18.} House, that they do make an effectual Provision to secure the Obedience both of the Officers and Soldiers, to be continued by this Bill, to the Civil Magistrate according to Law, it was resolved in the Negative, by 88 against 77, *viz.*

Content	53	} 77	Not-Content	73	} 88
Proxies	24		Proxies	15	

Dissentient

I. Because no Provision whatsoever is made by this Bill, for securing the Obedience of the Military to the Civil Power, on which the Preservation of our Constitution depends. ^{Protest against rejecting a Clause to secure the Obedience of the Officers, &c. to the Civil Magistrate.}

II. Because, we conceive, that a great Number of armed Men govern'd by Martial-Law, as they have it in their Power, so are naturally inclined, not only to disobey, but to insult the Authority of the Civil Magistrate; and we are confirmed in this Opinion, as well by the Experience of what hath happened here at Home, as by the Histories of all Ages and Nations; from which it appears, that wheresoever an effectual Provision hath not been made, to secure the Obedience of the Soldiers to the Laws of their Country, the Military hath constantly subverted and swallowed up the Civil Power.

W. Ebor', Willoughby de Broke, Belhaven, Bute, Bristol, Castleton, Bingley, Foley, Mansell, Guildford, Job. London, Scarsdale, Dartmouth, Bathurst, Devonshire, Fr. Raffen', Fr. Cestriens', Masbam, Lumley, Abingdon, Harcourt, Oxford, Greenwich, Rutland, Weston, Stratford, Tadcaster, North and Grey, Compion, Geo. Bristol, Deloraine, Townshend, Montjoy, Gower, Berkeley of Stratton, Northampton, Hay, Poulet, Trevor, P. Herford.

February 21. The Lords being in a grand Committee, those who opposed the Mutiny-Bill began with raising Objections against the Preamble of it, which suggests, 'That the Number of 16,347 Men is necessary:' Urging, They did not know from whence that Necessity should arise, the Kingdom being now in full Peace, without any just Apprehension, either of Insurrections at Home, or Invasions from Abroad; and thereupon it was moved, That the said Number of 16347 Men, be reduced to 12000. Hereupon there was a great Debate, that lasted till about Six in the Evening, in which the Earl of Oxford, Lord Trevor, Lord Harcourt, Earl of Abingdon, Earl of Ilay, Duke of Buckingham, Lord Bathurst <sup>E. of Oxford.
Ld Trevor.
Ld Harcourt.
E. of Abingdon.
E. of Ilay.
D. of Buckingham.</sup>

1717-18.

L 2

Bathurst

(a) Dr Bide,

Anno 4. Geo. I. 1717-18. *Bathurst*, Lord North and Grey, and the Lord Bishop of Hereford spoke against the Bill; the Earl of *Sunderland*, Lord *Stanhope*, Lord *Cowper*, Lord *Cadogan*, Lord *Parker*, Duke of *Roxburgh* (b), and Lord *Coningsby* for it.

Ld Bathurst.
Ld North and Grey.

Bp of Hereford.
E. of Sunderland.
Ld Stanhope.
Ld Cowper.
Ld Cadogan.
Ld Parker.
D. of Roxburgh.
Ld Coningsby.
E. of Oxford.

The Earl of *Oxford* endeavour'd to shew, 'That the keeping up a standing Army in Time of Peace was not the Way to gain the Hearts, but rather to increase the Disaffection of the People; and that all good and wise Princes had ever chosen to depend rather on the Affections of their Subjects, than on a Military Force.' This his Lordship illustrated by several Instances out of our *English* History, and, in particular, by the fresh Examples of the late King *William* and Queen *Anne*; adding, 'That none but bad and corrupt Ministers have Need of Troops to maintain their Authority and unwarrantable Proceedings. Lord *Stanhope* thereupon spoke in Vindication of the present Administration, and, from the Posture of Affairs, both at Home and Abroad, shew'd the Necessity of maintaining a greater Force than in former Times. It being suggested, on this Occasion, 'That it was hop'd no Minister would advise the King to enter into a War.' Lord *Stanhope* readily reply'd, 'That he would be the first that should advise him to it, if he thought the Honour of the Crown concerned in it.' Upon this the Lord *Bathurst* said, 'He was surprized to hear such an Expression from a Person in his Lordship's Station, whose principal Care, one would think, should be rather to discharge the great Burthen which has been left upon the Nation by the two last Wars, than to involve it in a new one, which can hardly be maintain'd without making Use of the Funds, that have been appropriated for the Payment of old Debts.' Lord *Cadogan* having represented, 'That if the Army was reduced to 12,000 Men, it were impossible upon any Emergency, to assemble a Body of 4,000 Men in any Part of *Great Britain*, besides *London*, without leaving the Sea-Ports, and other important Posts, unguarded,' Lord *Cowper* took Occasion to suggest, 'That they ought not to retrench the 4000 Men who were most necessary.' Hereupon the Question being put, Whether the Words *Sixteen Thousand* should stand Part of the Clause of the Preamble, it was resolv'd in the Affirmative, by 72 Voices against 50. After this it being moved, and the Question put, that the House be now resumed, it was resolv'd in the Negative, by 74 Voices against 48; and then their Lordships proceeded to the Clause, whereby Mutiny and Desertion are made punishable by Death; and the Question being put, whether the Words, *Death or* should stand Part

Ld Stanhope.

Ld Bathurst.

Ld Cadogan.

Ld Cowper.

Part of the said Clause ; it was resolved in the Affirmative Anno 4. Geo. I., without dividing. 1717-18.

The next Day the Lords went again into a grand Committee on the Mutiny-Bill ; and it was proposed, That in the Clause, which obliges Judges of a Court-Martial to take an Oath, when they try Criminals for such Crimes as may extend to Death, to insert after *Death*, the Words, *or otherwise* : But the Question being put, whether those Words should be added, it was carried in the Negative, by 68 Voices against 43. After this it was proposed to leave out the Clause, which enables his Majesty to constitute and settle Articles of War ; and the Question being put, whether that Clause should stand Part of the Bill ? It was resolved in the Affirmative by 68 Voices against 30. The Lord Stanhope having suggested, ' That all the Objections raised against this Bill amounted to no more than bare Suppositions of chimerical Dangers ; and defy'd any Body to charge the Administration with any Thing that might give just Ground of Apprehension for the Liberties of the People : Adding, That if the Government be now obliged to keep a greater Number of Forces than formerly, it is partly owing to the Situation in which the Affairs of *Europe* have been left by the late scandalous Peace ; the Earl of *Strafford* thereupon said, ' He could not be silent while a Work in which he had so great a Share was so openly attack'd ; but that the Peace which some are pleas'd to call scandalous, was approved by three successive Parliaments, and, in particular, by some Peers now in Place : That he would venture to affirm, that this very Peace had left the Affairs of *Europe* in a better Posture than they seem to be in at present, at least with Respect to *Great Britain* ; that notwithstanding the great Advantages which some boast to have obtained by the late Treaties, they have yet found the Way to lose our Trade to *Sweden* ; to endanger that to *Spain* and *Italy* ; and to keep a standing Army in full Peace : But that Time will shew whether three successive Parliaments will approve these Measures, as well as the Peace which is called infamous.' At the same Time, his Lordship animadverted on the late Proclamation, for allowing the Importation of *Swedish* Iron from all Places other than the Dominions of the King of *Sweden* ; which was, in Effect, he said, no more than to appoint the Dutch to be our Factors for *Swedish* Iron. Towards Seven in the Evening, the House was resumed, and the Earl of *Clarendon* reported, That the Committee had gone through the Bill without Amendment ; upon which it was ordered, That the said Bill be read a third Time on the 24th, and the Lords to be summoned.

Accordingly

Anno 4. Geo. I.
1717-18.

Lord North and
Grey.

Accordingly on the 24th the said Bill was read a third Time, and the Lord *North and Grey* made a summary Recapitulation of the Objections raised against it; but the Question being put, that this Bill do pass, it was resolved in the Affirmative.

Content
Proxies

67 }
21 } 88

Not-Content
Proxies

40 }
21 } 61

Dissentient

Protest against
passing the Mu-
tiny-Bill.

I. Because the Number of Sixteen thousand three hundred forty-seven Men is declared necessary by this Bill; but it is not therein declared, nor are we able any Way to satisfy ourselves, from whence that Necessity should arise, the Kingdom being now (God be praised) in full Peace, without any just Apprehensions, either of Insurrections at Home, or Invasions from Abroad.

II. Because so numerous a Force is near double to what hath ever been allowed within this Kingdom, by Authority of Parliament, in Times of Publick Tranquility; and being, as we conceive, no Ways necessary to support, may, we fear, endanger our Constitution, which hath never yet been entirely subverted but by a Standing Army.

III. Because the Charge of keeping up so great a Force, ought not unnecessarily to be laid on the Nation, already over-burthen'd with heavy Debts; and this Charge we conceive to be still more unnecessarily increased, by the great Number of Officers now kept on the Establishment in Time of Peace; a Number far greater (in Proportion to that of the Soldiers commanded by them) than hath ever yet been thought requisite in Times of actual War.

IV. Because such a Number of Soldiers, dispersed in Quarters throughout the Kingdom, may occasion great Hardships, and become very grievous to the People; and thereby cause or increase their Disaffection, and will, probably, ruin many of his Majesty's good Subjects on whom they shall be quartered, and who have been already by that Means greatly impoverished.

V. Because such a Standing Army, dangerous in itself to a free People in Time of Peace, is, in our Opinion, render'd yet more dangerous, by their being made subject to Martial Law; a Law unknown to our Constitution, destructive of our Liberties, not endured by our Ancestors, and never mentioned in any of our Statutes but in order to condemn it.

VI. Because the Officers and Soldiers themselves, thus subjected to Martial Law, are thereby, upon their Tryals, divested of all those Rights and Privileges which render the People of this Realm the Envy of all other Nations, and become

become liable to such Hardships and Punishments as the Lenity and Mercy of our known Laws utterly disallow ; and we cannot but think those Persons best prepared, and most easily tempted, to strip others of their Rights who have already lost their own.

Anno 4. Geo. IV.
1717-18.

VII. Because a much larger Jurisdiction is given to Courts-Martial, by this Bill, than, to us, seems necessary for maintaining Discipline in the Army ; such Jurisdiction extending not only to Mutiny, Desertion, Breach of Duty, and Disobedience to Military Commands, but also to all Immoralities and every Instance of Misbehaviour which may be committed by any Officer or Soldier towards any of his Fellow Subjects ; by which Means the Law of the Land ; in Cases proper to be judged by that alone, may, by the summary Method of Proceedings in Courts-Martial, be obstructed or superseded, and many grievous Offences may remain unpunished.

VIII. Because the Officers constituting a Court-Martial do at once supply the Place of Judges and Jury-men, and ought therefore, as we conceive, to be sworn upon their trying any Offence whatsoever ; and yet it is provided by this Bill, that such Officers shall be sworn upon their trying such Offences only as are punishable by Death ; which Provision we apprehend to be defective and unwarrantable by any Precedent, there being no Instance within our Knowledge, wherein the Judges of any Court, having Cognizance of capital and lesser Crimes, are under the Obligation of an Oath in respect of the one and not of the other.

IX. Because the Articles of War thought necessary to secure the Discipline of the Army, in Cases unprovided for by this Bill, ought, in our Opinion, to have been inserted therein, in like Manner as the Articles and Orders for regulating and governing the Navy were enacted in the thirteenth Year of King *Charles* the Second ; to the End that due Consideration might have been had by Parliament of the Duty enjoined by each Article to the Soldiers, and of the Measure of their Punishment ; whereas the Sanction of Parliament is now given by this Bill to what they have had no Opportunity to consider.

X. Because the Clause in this Bill enabling his Majesty to establish Articles of War and erect Courts-Martial, with Power to try and determine any Offences to be specified in such Articles, and to inflict Punishments for the same within this Kingdom in Time of Peace, doth (as we conceive) in all those Instances, vest a sole Legislative Power in the Crown ; which Power, how safely soever it may be lodged with his present Majesty, and how tenderly soever it may be exercised

Anno 4. Geo. I.
1717-18.



cised by him, may yet prove of dangerous Consequence, should it be drawn into Precedent in future Reigns.

XI. Because the Clause in the Bill, alledged to be made for enabling honest Creditors to recover their just Debts from Soldiers, seems to us rather to give a Protection to the Soldier than any real Advantage to his Creditor, or other Person having just Cause of Action against him; it protects the Person of a Soldier from Execution, as well as the *Messe* Process, for any Debt under ten Pounds; and it protects the Estate and Effects as well as the Person of every Soldier from all other Suits but for Debt, where the Cause of Action doth not amount to the like Sum; and in other Cases, where the Cause of Action exceeds that Value, Plaintiffs are in many Instances put under such unreasonable Difficulties, that, we conceive, before they can be allowed even to commence their Suit, their bare Compliance therewith may become more grievous to them than the Loss of their Debt, or a quiet Submission to the Wrong sustained; by which Means his Majesty's good Subjects may be highly injured in their Properties, and insulted in their Persons by the Soldiery, and yet be deprived of the legal Remedies appointed for the Redress of such Grievances.

W. Ebor^d, Compton, Dartmouth, Hay, Strafford, Boyle, Guilford, Greenwich, Weston, Trevor, Fran. Cestriens', Bute, Tadcaster, Bingley, Scarsdale, Litchfield, Foley, Mansell, Fr. Roffen', Abingdon, Bristol, North and Grey, Harcourt, Bathurst, Gower, Poulet, Northampton, P. Hereford, Montjoy, Oxford.

Debate in the
House of Lords
about the Bill
for Sale of the
Forfeited Estates.

Lord North and
Grey.

Ld Trevor.
Ld Harcourt.
D. of Argyle.

March 4. The Lords read the first Time, the *Bill for vesting the forfeited Estates in Great Britain and Ireland in Trustees, to be sold for the Use of the Publick*; and a Motion being made, and the Question put, That the said Bill be read a second Time. The Lord North and Grey spoke against the excessive Power, which, by this Bill, was given to the Trustees, whereby Abundance of Families might be oppress'd and ruin'd; and his Lordship was seconded by the Lords Trevor and Harcourt, and the Duke of Argyle, who urg'd, ' That this Bill, by leaving the Claims to the Forfeited Estates to the final Determination of the Trustees, not only clash'd with the Act of Union, in that it suspended and set aside, in that respect, the Courts of Judicature in North Britain, which, by the said Act, ought to remain entire; but was likewise derogatory to the Privileges and Authority of the House of Peers, who are supreme Judges in all civil Causes.' It was also alledge'd, That by the Method that had been follow'd, the Publick would get little

or

or nothing by the Forfeitures ; whereas, if the Scheme proposed by Sir *David Dalrymple* had been pursued, the same would have yielded considerable Sums, without any Oppression to the Subject. The Earl of *Sunderland*, the Lords *Stanhope*, *Parker*, and *Coningsby*, answer'd the Objections raised against the Bill ; and it was, at last, resolv'd, That the same should be read a second Time ; and that a Message be sent to the Commons, to acquaint them, ' That their Lordships, having under their Consideration, the Bill for vesting the Forfeited Estates in *Great Britain* and *Ireland* in Trustees, to be sold for the Use of the Publick, they did desire that the Commons would give Leave, that such of the Commissioners of Enquiry who were Members of that House, as also Sir *David Dalrymple*, his Majesty's Advocate-General of *Scotland*, might attend their Lordships House, on *Thursday* Morning next.'

Anno 4. Geo. I.
1717-18.

E. of *Sunderland*.
Ld *Stanhope*.
Ld *Parker*.
Ld *Coningsby*.

Message of the
Lords to the
Commons.

The next Day, the Commons proceeded to take the Message before-mentioned into Consideration ; and appointed a Committee to search Precedents with relation to the said Message. It appearing to the Commons by the Report of that Committee, that the like Desire of the Lords had, on some Occasions, been comply'd with, and at other Times deny'd ; the Commons, who were resolved to follow the Precedents for the latter, lest the Lords should make Alterations in a Money-Bill, put off the Consideration of the said Report till the next Day. Hereupon the Lords, who had waited for an Answer from the Commons till Three in the Afternoon, proceeded to the second Reading of the Bill *For vesting of the Forfeited Estates in Trustees, to be sold for the Use of the Publick* ; and it being moved, that the said Bill be committed, it occasion'd a great Debate. The Lord *Harcourt*, the Earl of *Ilay*, and the Duke of *Argyle* urg'd several Reasons against the Bill ; and were answer'd by the Lords *Cowper*, *Stanhope* and *Coningsby* ; and after some other Speeches for and against, the Question being put, upon the Motion before-mention'd, it was carry'd in the Affirmative by 80, Votes and Proxies, against 73 ; And resolv'd, That the said Bill be referr'd to a Committee of the whole House the *Saturday* next following. In the mean Time, the Commons having met again on the 7th of *March*, read only a Petition of the Tanners in the County of *Brecon*, and then immediately adjourn'd till the 10th, to avoid taking into farther Consideration either the Lords Message, or the Report of their own Committee about Precedents.

Ld *Harcourt*.
Earl of *Ilay*.
D. of *Argyle*.

Ld *Cowper*.
Ld *Stanhope*.
Ld *Coningsby*.

On the 8th of *March*, there was a great Debate in the House of Lords, upon the third Reading of a Bill from the Commons, intitled, *An Act to impower the Commissioners, appointed to put in Execution the Act for building Fifty new Churches*.

Debate on a Bill
for rebuilding St
Giles's Church
instead of one of
the fifty New
Churches.

1718.

M

Anno 4. Geo. I. *Churches in London and Westminster, to direct the Parish Church of St Giles's in the Fields, in the County of Middlesex to be rebuilt, instead of one of the said Fifty new Churches.* The Archbishop of York, and some other Prelates, strenuously opposed this Bill, urging, 'That the same was a Misapplication of Money already granted by Parliament for a pious Use.' It was also propos'd, That in the Preamble of the said Bill, the Words *of pious Memory* should be added, after the Name of the late Queen; but it was carried in the Negative by 54 Voices against 33.

Protest on refusing to add, of *pious Memory*, after the Name of Queen Anne.

Dissentient

Because we cannot but judge these Words, *of pious Memory*, highly decent and proper to have been inserted in a Bill, reciting two pious and gracious Acts of Parliament passed in the Reign of her late Majesty, for rebuilding of Fifty new Churches: A Work earnestly recommended by her Majesty to her Parliament, and by them declared to be so much to the Honour of God, the spiritual Welfare of her Majesty's Subjects, the Interest of the Established Church, and the Glory of her Majesty's Reign.

W. Ebor', Fran. Cestriens', Compton, Willoughby de Broke, Buckingham, Poulett, Strafford, Job. London, George Bristol, Boyle, Masbam, Fr. Raffen', Foley, P. Hereford, North and Grey, Mansell, Berkeley of Stratton, Oxford, Bathurst.

Then after farther Debate in relation to the aforementioned Bill, the Question was put, whether this Bill shall pass? It was resolved in the Affirmative.

Contents	49	} 70	Not Cont.	38	} 63
Proxies	21		Proxies	25	

Dissentient

I. Because it doth not appear to us from any Declaration in his Majesty's Name to either House of Parliament, that his Royal Leave was given for bringing in the said Bill, as, we humbly conceive, it ought to have been, for bringing in a Bill of this Nature.

II. Because this Bill, in our Opinion, manifestly tends to defeat the Ends and Purposes of two Acts of Parliament for building fifty new Churches, and yet at the same Time asserts that the Intention of the said Acts would be hereby answered.

III. Because this Bill farther asserts, That the Parish of *St Giles* is in no Condition to raise or pay the Sum of three thousand Pounds and upwards, for the Repair of its Parish-Church, which we apprehend to be evidently false in Fact; and

and if true, to be no Reason for rebuilding the said Church out of the Fund given for building fifty new Churches. Ann^o 4. Geo. I.
1717-18.

IV. Because this Bill moreover asserts, That the said Parish-Church, when rebuilt, and the Church which is now building in the said Parish, by virtue of the Acts for building fifty new Churches, will be sufficient for the Inhabitants of the said Parish; whereas we are credibly informed, and, upon the best Calculation, do believe, that there are about forty thousand Souls in the said Parish; and do think, that three new Churches, together with the present Parish-Church, will be barely sufficient for that Number.

V. Because if this Precedent for rebuilding old Churches, out of the Fund appropriated for building new ones, should be followed, and the Ends of the abovesaid Acts should be thereby in any great Measure defeated, we are apprehensive, that many thousands of his Majesty's good Subjects in and about these populous Cities will be left unprovided of Churches, whereunto they may resort for the publick Worship of God; and will thereby remain destitute of the necessary Means of being instructed in the true Christian Religion, as it is now professed in the *Church of England*, and established by the Laws of this Realm.

W. Ebor', Geo. Bristol, Willoughby de Broke, Berkeley of Stratton, Fr. Roffen', Mansell, Job. London, Strafford, Bathurst, Poulett, Fr. Cestriens', Oxford, P. Hereford, North and Grey, Malsbam, Foley, Boyle.

On the 11th of *March* the Lords, in a Grand Committee, read the third Time the Bill for vesting the Forfeited Estates in Trustees, to be sold for the Use of the Publick, and for giving Relief to lawful Creditors, by determining the Claims, and for the more effectual bringing, into the respective *Exchequers*, the Rents and Profits of the said Estates till sold. The Bill for Sale of the Forfeited Estates pass'd by the Lords.

And a Motion being made, that the Bill do pass, it was carry'd in the Affirmative, by 82 against 76.

Contents	55	}	82	Not Cont.	45	}	76.
Proxies	27	}		Proxies	31	}	

Dissentient'

I. Because, we humbly conceive, that the Charges of this Commission are a very great and unnecessary Burthen on the Publick, and will swallow up a great Part of that Fund the Commissioners are appointed to be Guardians of; whereas the Ends of that Trust, which is lodged in them by this Bill, might have been more easily, more justly, and with less Expence, attained by the known and ordinary Course of the Law.

1718.

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II. Because

Anno 4. Geo. I.
1717-18.

II. Because there is erected in this Bill a Court of Judicature with strange and new Powers, *viz.* in a summary Way, and without the Formality of Proceedings in the Courts of Law or Equity to proceed by, and upon the Testimony of Witnesses upon Oath ; Examination of Persons claiming, or otherwise interested, upon their Oaths ; Inspection and Examination of Deeds, Writings and Records ; and by all or any of the said Ways and Means, or otherwise, according to the Circumstances of the Case, or of the Persons claiming, as soon as conveniently may be, to hear, determine and adjudge all and every Claim and Claims : Which Words seem to contain the most arbitrary and unlimited Authority that can possibly be created ; and in particular, the Expression concerning the Circumstances of the Persons is not only unknown to our Laws, but prescribes a Rule which was never yet thought to be a proper Ingredient in the impartial Administration of Justice.

III. Because there is in this Bill a Penalty laid on the Witnesses who shall forswear themselves to support any Claim, but no Punishment inflicted on those who shall make false Oaths in order to defeat any just Demand.

IV. Because there is nothing in this Bill which incapacitates the Commissioners, or any in Trust for them, to purchase Claims on the Forfeited Estates ; and yet in case they should make such Purchases, they will become both Judges and Parties in the same Cause, and consequently be exposed to Temptations of a great and dangerous Nature.

V. Because the reversing and making void all Acts and Decrees of any Court of Judicature, passed since the 24th Day of *June*, 1715, concerning any Right, Charge or Interest out of any of the Forfeited Estates, and the not saving to all Creditors and other Claimants such Right as they had before the passing this Bill, does greatly endanger, if not totally make void the just Demands of such Creditors or other Claimants, which they have not only in many Cases a Right to by the ancient Laws of their Country, but which are secured to them (at least in that Part of *Great-Britain* called *Scotland*) by the Faith of an Act of Parliament, as a future Reward of their dutiful and loyal Behaviour to his Majesty and his Government, when the Nation was threaten'd with the greatest Dangers ; which Reward has been confirmed to them by a subsequent Act.

VI. Because the Time of entering Claims on Estates forfeited, or to be forfeited before the 24th of *June*, 1718, is allowed no farther than to the first of *June* in the said Year ; whereby all Creditors, Claimants, and *Bona Fide* Purchasers of Estates, which may be forfeited between the
1st

1st and 24th of *June* aforesaid, are absolutely and expressly *Anno 4. Geo. I.*
barred and excluded. 1717-18.

VII. Because the setting up a new Court of Judicature for Claims on Forfeited Estates, in any Part of *Great Britain*, is wholly unprecedented, and the Privileges and Jurisdiction of this House are thereby diminished and endangered, but much more so, by the reversing Decrees of Courts of Judicature already made, which, whether they are erroneous or legal, ought (as the Constitution of this Kingdom now is, and hath hitherto been) to be reviewed, reversed, or affirmed by no other Jurisdiction whatsoever, but that which is inherent in the House of Lords.

VII. Because the Court of Session is by this Bill discharged from exercising their lawful Jurisdiction, notwithstanding that the Foundation of the Constitution of the United Kingdom of *Great Britain* is the Articles of the Union; wherein it is expressly stipulated, That the Court of Session shall remain in all Time coming as it was then constituted, with the same Authority and Privileges as before the Union; and though the said Court was subjected to Regulation, for the better Administration of Justice, yet the Jurisdiction of it was in no case to be totally extinguished.

IX. Because the erecting new Jurisdictions with such indefinite Powers, exclusive of the House of Lords; the making void or endangering the Rights of great Numbers of lawful Creditors or other Claimants, secured to them by the Laws; and the depriving the Courts of Justice of their Judicature as aforesaid, we humbly apprehend, cannot but raise the highest Discontents in the Minds of his Majesty's Subjects.

Buckingham, Strafford, Poulett, Geo. Bristol, Bathurst, Willoughby de Broke, Deloraine, Trevor, Oxford, Plymouth, North and Grey, Mansell, Fr. Roffen', Northampton, Compton, Tadcaster, Guilford, Hay, Greenwich, Boyle, Weston, Litchfield, Belhaven, Foley, Mabbam, Montjoy.

March 17. A Bill for the better explaining several Acts, therein mentioned, for erecting of Hospitals and Work-Houses within the City of *Bristol*, for the employing and maintaining the Poor thereof, and for making the said Acts more effectual, being read the third Time, and the Question being put that the * Bill do pass, it was carried in the Affirmative by 58 against 22.

Dissentient Proteft against a Clause in a Bill for erecting Work-Houses at Bristol.

* By a Clause in this Bill, it is enacted, That the Clause of the Act 22. ANNÆ, enacting, 'That no Person shall be capable of being Guardian for the Poor, who shall not have taken the Sacrament according to the Rites of the Church of England, as appointed by an Act 13. CAR. II. shall from henceforth be repealed, abrogated, and for ever made void.'

Anno 4. Geo. I. *Dissentient*

1717-18.

I. Because the comprehensive Latitude of this Bill is such, that all Persons without Discrimination, whether well or ill affected to our Constitution in Church and State, *Papists* as well as *Protestants*, *Nonjurors* as well as those who take the Oaths, *Jews* as well as *Christians*, are all alike capable of being admitted into the Corporation to which this Bill refers; and of sharing all the Trusts and Powers lodged in the Members thereof.

II. Because this Bill, whilst it complains of the Difficulty of finding a sufficient Number of proper and well qualified Persons to be elected and constituted Guardians and Officers of the said Corporation, and, to avoid that pretended Difficulty, lets in Dissenters, doth at the same Time shut out seventeen Church-Wardens, who, by a former Act, were incorporated therein, and who, by the Constitution, have the Care of the Poor in a special Manner intrusted with them.

III. Because this Bill repeals a Law, by which the Dissenters were excluded from Places and Offices in this Corporation, and this Repeal may hereafter be made use of as a Precedent for abrogating other Laws, as yet in Force, in order to the Admission of Dissenters into all Places and Offices whatsoever.

IV. Because this Bill, by exempting Guardians and Officers therein mentioned from the Penalties and Forfeitures of the Corporation and Test Acts, doth, in our Opinion, very much weaken the Force of those Acts, which are declared by the Legislature to have been made for the Security of the *Church of England*, as by Law established, and, as such, are, we conceive, ratified and made perpetual by that Clause in the Act of Union, which enacts, That the Act for the Ministers of the *Church of England* to be of sound Religion, and the Act for Uniformity, and all and singular other Acts of Parliament then in force, for the Establishment and Preservation of the *Church of England*, shall remain and be in full Force for ever.

Geo. Bristol, Hay, Strafford, Bathurst, Fr. Roffen, Mansell, Jonat. Winton, Jqb. London, Montjoy, Compton, Oxford, Boyle, Weston.

The Parliament
prorogued.

On the 24th the King came to the House, and the Lord Chancellor having read his Majesty's Speech to both Houses, prorogued the Parliament to the 20th of *May*; and afterwards by several Prorogations to the 11th of *November*.

The

The FOURTH SESSION of the FIRST PARLIAMENT of King GEORGE I.

ON the 11th of November the King opened the Session with a Speech † as usual. And his Majesty being withdrawn, the Lord Carteret moved for an Address of Thanks ; to congratulate the seasonable Success of his Majesty's Naval Forces; and to assure him that this House would support him in the Pursuit of those prudent and necessary Measures, he had taken to secure the Trade and Quiet of these Kingdoms and the Tranquility of Europe. Lord Carteret was seconded by the Lord Tenham, but several Lords excepted against the congratulating his Majesty upon the seasonable Success of his Naval Forces, and the promising to support him in the Pursuit of those prudent and necessary Measures he had taken, because it was, in Effect, to approve a Sea-Fight which might be attended with dangerous Consequences, and give the Sanction of that august Assembly to Measures, which, upon Examination, might appear either to clash with the Laws of Nations, * and former.

Anno 5. Geo. I.
1718.

Debate on an Address of Thanks and Congratulation to the King, on Sir George Byng's destroying the Spanish Fleet.

Ld Carteret.
Ld Tenham.

† See the Speech in CHANDLER's History of the Commons, p. 182.

* The following Article appear'd in the GAZETTE, Sept. 27, 1718. But it is to be observ'd, that this is the Spaniards own Account of this Transaction !

ESCURIAL, Sept. 11. On the 8th of August towards Night, the English Squadron appear'd at the Island of Stromboli ; and the Marquis de Lede having the next Day sent an Officer of the Marine, on Board Admiral Byng, who was at Anchor at Cape Mortelli, to learn the Motive of his coming, he answered to that Enquiry, That he had written a Letter, and appointed a Person to carry it, and that he came only as a Friend and Mediator of Peace.

The Letter was deliver'd into the Hands of the Marquis de Lede, and was in the same Terms as that which he wrote near Cadiz, and which was delivered to the King, by Mr Stanhope, -notifying his Arrival, and his Master's Orders, to employ Force of Arms, in Case his Majesty did not desist from his Enterprizes on Italy : Only in this last Letter, written to the Marquis de Lede, there was this Variation, that instead of naming the Dominions of the Arch-Duke, he mentioned the Kingdom of Sicily, as a Part comprehended in the Neutrality of Italy. The Person, who in the Name of Admiral Byng conferr'd with the Marquis de Lede, made very pressing Instances, that all Operations of War might immediately cease, and a Suspension of Arms be speedily concluded. And it being answer'd on our Part, that this cou'd not be done without having the necessary Orders first from Court; the Englishman was dismissed to return on Board ; but before he went, the Marquis de Lede reproach'd him with the convoying of fourteen Tartanes, having German Infantry in them, from Naples : This he excused, saying, That those Tartanes were met near the Coast of Sicily, and that his Chief had judg'd, it would not be proper to hinder their Passage, seeing they were bound for Bajoles in Calabria, whither indeed they actually went. On this Occasion he confirm'd, That his General was

Anno 5. Geo. I. mer Treaties, or to be prejudicial to the Trade of *Great Britain*; That, according to the constant Usage of that

1718.

E. of Strafford.

Ld Stanhope.

House, they ought to proceed with the utmost Caution and maturest Deliberation in an Affair, wherein the Honour, as well as the Interest of the Nation were so highly concern'd. And Lord *Strafford* insisted, ' That before they approved the Sea-Fight, they ought to be satisfy'd whether the same happen'd before or after the signing of the Quadruple Alliance, and therefore moved for an Address that Sir *George Byng*'s Instructions might be laid before the House.' To this it was answered by Lord *Stanhope*, ' That there was no Manner of Occasion for such an Address, since, by his Majesty's Command; he had already laid before the House the Treaties of which the late Sea-Fight was a Consequence, and in particular the Treaty for a defensive Alliance between the Emperor and his Majesty, made at *Westminster* the 25th of May, 1716; and the Treaty of Alliance for restoring and settling the publick Peace, sign'd at *London* the 22d of July, O. S.' After this his Lordship accounted at large for the Justice and Equity of those Treaties, which were mainly calculated to preserve, restore and settle the Peace of *Europe*, by rendering the Treaty of *Utrecht* effectual, particularly in preventing the Union of the two great Monarchies of *France* and *Spain*, under one Sovereign, and in securing the Succession of these Kingdoms in his Majesty's Royal Family. At the same Time, his Lordship shew'd how the Court of *Spain* had violated the Treaty of *Utrecht*, and acted against the publick Faith in attacking the Emperor's Dominions, while he was engaged in a War against the Enemies of Christendom, and in what Manner they had rejected his Majesty's friendly Offices, and repeated Offers of mediating an Accommodation

not come to declare War, but only as a Mediator of Peace, and that he would not commit any Hostility.

' Admiral Byng being told the Answer and Sentiments of the Marquis de Lede, sent the Consul of his Nation, residing in Messina, to acquaint the Marquis, that within eight Days he would return with his Squadron into that Neighbourhood, and then he hop'd they should eat a Soup together, seeing by that Time, the Marquis might receive Orders for an entire Conclusion of Peace.

' On the 10th he enter'd the Faro, with his whole Squadron, standing to the Southward, our Fleet being gone the same Course before: He held on his Way 'till he came into the Height of Syracuse; and on the 11th coming up with the Rear-Guard of the Marquis Mari, he committed downright Hostility, and all the Actions of open War. And tho' the King cannot persuade himself, that this Proceeding, (in which Breach of Faith has so great a Share) is the Act of the English Nation: Yet no Body is ignorant that it is the Effect of the artful Projects of the Ministry at London, who are capable of attempting the greatest Wickedness, to bring about their Designs, which are no less pernicious, than fatal to common Liberty.'

commodation between the Emperor and his Catholick Majesty. To which Purpose his Lordship gave the House an Account of his late Journey to, and Negotiations in *Spain*. He added, ' That it was high Time for *Great Britain* to check the Growth of the Naval Power of *Spain*, in order to protect and secure the Trade of the *British* Subjects, which had been violently oppress'd by the *Spaniards*; to which Purpose several Letters were read: Concluding, that both with Relation to *Sir George Byng's* Instructions, and in all other Respects, in this whole Affair his Majesty had acted by the Advice of his Privy Council; that he was one of that Number; and he thought it an Honour to have advised his Majesty to these Measures, because he was perswaded they entirely agreed with the Honour and Interest of his Country; that he doubted not, but, upon the strictest Examination, these Measures would be approved of by all true *Englishmen*; and that he was ready to answer for them with his Head.' This Speech, delivered with becoming Vehemence, made a great Impression on the whole Assembly, and tho' several Peers still urg'd, That the making War before the declaring of it, was a manifest Violation of the Law of Nations; and others raised less material Objections: Yet the Question being put upon the Lord *Carteret's* Motion, the same was carried in the Affirmative by 83 Voices against 50. The Speakers for the Address were the Lords *Carteret* and *Tenham* (a), and the Earls of *Sunderland* and *Stanhope*; and against it, the Dukes of *Buckingham*, *Devonshire* (b), and *Argyle*, the Earls of *Nottingham*, *Cowper* (c), *Oxford*, and *May*, the Lords *North* and *Grey*, and *Harcourt*.

Anno 5. Geo. I.
1718.

On the 13th, the Lords presented their Address to his Majesty, as follows:

Most Gracious Sovereign,

' **WE** your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, do return your Majesty our humble Thanks for your most gracious Speech from the Throne, and desire to express to your Majesty the true Sense this House has of your Care in preserving the Publick Peace and the just Ballance of Power in *Europe*; and of the tender Regard which your Majesty has shewn for the Trade of your Subjects. The considerable Reduction of the Land-Forces, which your Majesty has made at this Time, must fully satisfy

The Address.

(a) One of the Lords of the Bed-Chamber to the King.

(b) Appointed Lord President of the Council, July 6, 1716, in the Room of the Earl of Nottingham, but resigned April 16, 1717.

(c) Resigned his Office of Lord High Chancellor, April 15, 1718.

Anno 5. Geo. I.
1718

tisfy all your Subjects, that you will never desire the Continuance of more Troops than what are absolutely necessary for their Safety. In a most particular Manner we thank your Majesty for having obtained such great and farther Securities of the Succession of these Kingdoms in your Royal Family, as will, under the Blessing of God, perpetuate the Protestant Succession undisturb'd. We most heartily congratulate your Majesty upon the seasonable Success of your Naval Forces; and beg Leave to assure your Majesty, That this House will, to the utmost of their Power, stand by, and support your Majesty in the vigorous Pursuit of those prudent and necessary Measures your Majesty has taken, to secure the Trade and Quiet of these Kingdoms, and the Tranquility of *Europe*.

His Majesty's Answer was as follows :

My Lords,

The King's Answer.

" I Thank you for this Address, so full of Duty to me, and Affection to your Country. I can't doubt but my Endeavours for the Happiness of my People, and the Tranquility of *Europe*, will attain the Ends propos'd, when the Enemies to both shall see me supported therein by this House, with so much Warmth and Zeal.

Ld Stanhope acquainted the House with the King's having declared War against Spain.

December 16. The Earl Stanhope, by the King's Command, acquainted the House, that all his Majesty's Endeavours, and those of the most Christian King, to procure Redress of the many Injuries done to the Subjects of *Great Britain* by the King of *Spain*, to the unspeakable Detriment of the Trade of these Kingdoms; or even to obtain a Discontinuance of the unjust Hostilities carrying on by that Crown, having proved ineffectual, his Majesty had found it necessary to declare War against *Spain*; and thereupon his Lordship moved for an Address of Thanks; and was strongly supported by several Lords. A Noble Peer only suggested, 'That before they gave Sanction to a Step of so nice a Nature, and of so great Importance, it were proper to consider whether the same was consonant to Treaties; and therefore moved that a Day might be appointed for that Purpose.' To this Lord Stanhope answered, 'That he had, five Weeks before, by his Majesty's Command, laid the several Treaties relating to this Affair before the House, so that all the Members of that Noble Assembly had had sufficient Time to peruse and examine the same: But, however, after the Address which he had moved, had been presented, he would readily give his Vote for appointing a Day to consider of the said Treaties. And he durst answer before hand,

that

that, upon the strictest Examination it would be found, That his Majesty and his Ministers had done nothing, either against the Faith of Treaties, or the Honour and Interest of the Nation.' Hereupon it was carry'd without further Opposition, that an Address of Thanks be presented to his Majesty; which was immediately drawn up, and the same Day, presented to his Majesty, as follows:

Anno 5. Geo. I.
1718.

Most Gracious Sovereign,

WE your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, do return your Majesty our most humble Thanks, for having acquainted us with the Resolution your Majesty has taken of declaring War against Spain: And as this House has already promised your Majesty, that they would stand by and support you in the vigorous Pursuit of those prudent and necessary Measures your Majesty has taken to secure the Trade and Quiet of these Kingdoms, and the Tranquility of Europe, so, upon this Occasion, we beg Leave to give your Majesty the strongest Assurances of our firm and steady Resolution to assist your Majesty, with the utmost Zeal in the Prosecution of the present War against Spain.

An Address of
Thanks upon
that Occasion.

To this his Majesty return'd the following Answer.

My Lords,

I Return you my hearty Thanks for this Address, and for the Assurances you give me, of your ready Resolution to support and assist me in the Prosecution of this War against Spain.

The King's An-
swer.

On the 13th of December, after the Lords had passed a Bill For quieting and establishing Corporations, the Lord Stanhope stood up and said, 'That, in his Opinion, a Thing of greater Importance, and becoming the Wisdom of that August Assembly, yet remained to be done, in order to settle the Minds, and unite the Hearts and Affections of the Well affected to the present happy Establishment; and that for that Purpose, he had a Bill to offer to the House, intituled, *An Act for strengthening the Protestant Interest in these Kingdoms*, which he desired might be read.' It being the Privilege of every Peer to bring in such a Bill as he thinks proper, without the previous Leave of the House, the said Bill was read, importing a Repeal of Part of the Act of the 10th Year of her late Majesty's Reign, intituled, *An Act for preserving the Protestant Religion, by better securing the Church of England, and against Occasional Conformity*; as also of the Act of the 12th of her late Majesty's Reign, *To prevent the Growth of Schism*; and of some Clauses in the *Test and Corporation Acts*. The Lord Stanhope having mov'd, That it

Lord Stanhope
brings in a Bill
for repealing the
Acts against Oc-
casional Confor-
mity, and the
Schism Act.

Debate thereon.

1718.

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might

Anno 5. Geo. I.
1718.

E. of Stamford.
E. of Sunderland.
D. of Bucking-
ham.
D. of Devonshire.
E. of Notting-
ham.
E. of Aylesford.
E. of Oxford.
E. Cowper.
E. of Ilay.
Vis. Townshend.
Ld. North and
Grey.

Ld Stanhope,

E. of Notting-
ham.

E. Cowper.

might be read a second Time, the same occasion'd a long Debate ; wherein the Lord *Stanhope* endeavour'd to shew the Equity, Reasonableness, and Advantage of restoring *Dissenters* to their natural Rights, and of easing them of the stigmatizing and oppressive Laws, made against them in turbulent Times, and obtain'd by indirect Methods, for no other Reason, than because they ever shew'd their zealous and firm Adherence to the Revolution and Protestant Succession : Urging, That this desirable Union of all true Protestants, as it would certainly strengthen the Protestant Interest, so would it rather be an Advantage, than any Prejudice to the Church of *England*, by Law establish'd, which would still be the Head of all the Protestant Churches ; and the Archbishop of *Canterbury* become the Patriarch of all the Protestant Clergy.* Lord *Stanhope* was seconded by the Earls of *Stamford* and *Sunderland*, and some other Lords : But the Dukes of *Buckingham* and *Devonshire*, the Earls of *Nottingham*, *Aylesford*, *Oxford*, *Cowper*, and *Ilay*, the Lord Viscount *Townshend*, and the Lord *North* and *Grey*, endeavour'd to put off the second Reading of the Bill to a long Day. They alledged, ' That this Bill, instead of strengthening, would certainly weaken the Church of *England* ; by plucking off her best Feathers, investing her Enemies with Power, and sharing with them Civil and Military Employments, of which Church-Men only are now in Possession. The Duke of *Devonshire*, in particular, suggested, ' That it was irregular to bring in a Bill of so great Consequence, without previously acquainting the House : But it was readily answer'd by Lord *Stanhope*, ' That his Grace had forgot, that about two Years before he brought in himself, in the same Manner, a Bill of much greater Consequence *.' The Earl of *Nottingham* said upon this Occasion, ' That the Church of *England* is certainly the happiest Church in the World, since even the greatest Contradictions contribute to her Support : For nothing could be more contradictory, than a Bill which is said to be calculated to strengthen the Protestant Interest, and the Church of *England* ; and which at the same Time repeals two Acts that were made for her further Security.' The Earl *Cowper* said, ' That he had no Manner of Prejudice against the *Dissenters*, but rather a tender Regard for them ; That, as he had been bred in, so he had ever communicated with the Church of *England*, which he believed to be the best Protestant Church, and the most agreeable to the Primitive Pattern of Christianity : But that, however, if he had happen'd to be at *Geneva*, he would

* See the Debate on the Septennial Bill, brought in by the Duke of Devonshire, p. 27.

would not have scrupled to have communicated with the Protestants there : That he was for giving the Dissenters as much Ease, as was consistent with the Safety of the Constitution in Church and State, and would readily give his Vote for the Repealing the *Schism* Act; but that he could not but oppose that Part of the Bill now laid before them, whereby Part of the *Test* and *Corporation* Acts were effectually repealed, with Relation to Dissenters; because he look'd upon those Acts as the main Bulwark of our excellent Constitution in Church and State; and therefore would have them inviolably preserv'd and untouch'd.' The Earl of *Ilay* said,

Anno 5. Geo. 1.
1718.

' That every Body knew he was educated in a different Way from the Church of *England*: But nevertheless he could not but be against this Bill, because, in his Opinion, it broke the *Pacta Conventa* of the Treaty of *Union*, by which the Bounds both of the Church of *England* and of the Church of *Scotland* were fixed and settled; and his Lordship was apprehensive, That if the Articles of the *Union* were broke; with Respect to one Church, it might afterwards be a Precedent to break them with Respect to the other.' The Lord *North* and *Grey* urged, ' That this was an Affair of so great Importance, that it ought to be debated in a full House; and a great many Members being absent, his Lordship moved, That the second Reading might be put off for a Month; and that the Lord Chancellor be ordered to write circular Letters to summon all the Lords to attend upon the severest Penalty the House could inflict. The Duke of *Buckingham* was for putting off the second Reading to a long Day; but thought it needless to give the Lord Chancellor, who had Business enough upon his Hands, the Trouble of writing Circular Letters: And therefore suggested, ' That every Lord then present might write to his absent Friends, to acquaint them with what was depending in the House; and he was sure such Letters would be more acceptable, and effectual, than a formal Summons.' The Courtiers being unwilling to adjourn the Affair so long, the Earl of *Ilay* proposed that the second Reading might only be put off till the 18th, which was agreed to, without dividing.

E. of Ilay.

Ld North and Grey.

D. of Buckingham.

E. of Ilay.

Dec. 18. The Bill was read a second Time; and a Motion made for committing it to a Committee of the whole House; but this being opposed by the Earl of *Nottingham* and some others, the Earl of *Cholmondeley* suggested, ' That before they proceeded any farther, in an Affair wherein the Church was so nearly concerned, he thought it very proper to have, in the first Place, the Opinion of that Venerable Bench [pointing to the Bishops.] Then the Archbishop of *Canterbury** stood up, and gave his Reasons against the Bill, ' That the

E. of Nottingham.

E. of Cholmondeley.

ABp of Canterbury.

Anno 5. Geo. I. 1718. the Acts which by this Bill were to be repealed, are the main Bulwark and Supporters of the Establish'd Church ; That

he had all imaginable Tenderness for all the well-meaning, conscientious Dissenters ; but he could not forbear saying, That some amongst them made a wrong Use of the Favour and Indulgence that was shewn them upon the Revolution, tho' they had the least Share in that happy Event : And therefore it was thought necessary for the Legislature to interpose and put a Stop to the scandalous Practice of Occasional Conformity, which was condemn'd by the soberest Part of the Dissenters themselves. And as to the Act against *Schism*, tho' it may carry a Face of Severity, yet it seem'd needless to make a Law to repeal it, since no Advantage had been taken of it against the Dissenters ever since it was made.*

ABp of York.

The Archbishop of York † said, ' That the Arguments used the other Day for this Bill, had no more Weight with him, than they had with his Brother of *Canterbury*. His Grace urged in particular, the Danger of trusting the Dissenters, the open and avowed Enemies of the Church, with Power and Authority ; and endeavour'd to account for the *Acts against Occasional Conformity and Schism*, by saying, they were only for Self-Defence and Self-Preservation, and not for Persecution : Adding, that Dissenters were never to be gain'd by Indulgence. To that Purpose his Grace quoted a Passage out of a Treatise, intituled, *A Persuasive to Lay Conformity*, written by a Prelate, who, 'twas insinuated, had, since the writing of that Book, embraced and maintain'd other Principles. His Grace also took this Opportunity to clear the Clergy of the Establish'd Church, from the Aspersions of Disaffection to the present happy Establishment, by instancing two Divines, who during the late unnatural Rebellion, had given signal Proofs of their Loyalty and Zeal for his Majesty's Person and Government.' The Lord Bishop

Bp of Bangor.

of Bangor †, who spoke next, answer'd the Archbishop of York, particularly with Relation to the Passage quoted out of one of his Treatises. He said, ' He was so far from having alter'd his Principles, that both before, and after he had been promoted to the Station he held in the Church, he had endeavour'd to bring over the Dissenters ; but that he ever was of Opinion, that gentle Means are the most effectual for that Purpose. After this, his Lordship shew'd at large, the Unreasonableness and ill Policy of imposing *Religious Tests*, as a Qualification for Civil or Military Employments, which abridges Men of their natural Rights, deprives

* Sir William Dawes.

† Dr Benjamin Hoadley : Translated to Hereford, Nov. 7. 1721. To Salisbury, Oct. 29. 1723. Now Bishop of Winchester.

prives the State of the Service of many of its best Subjects, Anno 5. Geo. I.
and exposes the most sacred Institutions and Ordinances to be
abused by prophane and irreligious Persons. 1718.

He also endeavour'd to prove, that the *Occasional* and *Schism Acts*, were, in effect, persecuting Laws; and that by admitting the Principle of Self-Defence and Self-Preservation in Matters of Religion, all the Persecutions of the Heathens against the Christians, and even the Popish Inquisition, may be justify'd: That as to the Power, of which some Clergymen seem'd so fond, and so jealous, his Lordship own'd, that the Desire of Power and Riches is natural to all Men; but that he had learn'd both from Reason and the Gospel, that this Desire must keep within due Bounds, and not intrench upon the Rights and Liberties of our Fellow-Creatures and Countrymen.* The Bishop of *Bristol* † urged, 'That the late King Bp of Bristol. *William* having recommended to both Houses from the Throne, That *They would leave Room for the Admission of all Protestants that were willing and able to serve*; and a Clause having thereupon been offer'd to be insert'd in a Bill depending in the House of Lords, *To take away the Necessity of receiving the Sacrament, to make a Man capable of enjoying any Office, Employment, or Place of Trust*; the said Clause was rejected by a great Majority, as well as another Clause offer'd also to be insert'd in the said Bill, *To prevent the receiving the Sacrament of the Lord's Supper, upon any other Account, than in Obedience to the holy Institution thereof*: Adding, that soon after, the Lords address'd King *William*, *That he would maintain the Church of England as by Law establish'd*; all which his Lordship apply'd to the present Case, and voted against the Bill.' He was answer'd by the Lord Bishop of *Gloucester* ‡, who endeavour'd to wipe off the Bp of Gloucester. Impotation of *Hypocrisy* cast on the Dissenters.' His Lordship was back'd by the Lord Bishop of *Lincoln* §, who made an historical Deduction of the Business in Question, and commended the Zeal of a noble Earl, when Secretary of State, in promoting a *Comprehension*, according to King *William's* Desire. His Lordship also took Notice, 'That Religion was ever used by crafty Men as a Blind and Pretence to carry on political Designs; and he remember'd, in particular, in the late Reign, 'That while our Arms were victorious ' Abroad, the Church was in Danger at Home; but no ' sooner was a Stop put to that glorious War, than the Church ' was in a flourishing Condition.' The Bishop of *Lincoln* having

* Dr George Smallridge.

† Dr Richard Willis; translated to Salisbury, Nov. 21. 1721. To Winchester, Sept. 21. 1723.

‡ Dr Edmund Gibson; translated to London, May 4. 1723.

Anno 5. Geo. I. 1718. *having done speaking, the Earl of Nottingham, who was hinted at by that Prelate, and was the Promoter of the Occasional Conformity-Bill, and had opposed the Bill now in Question, thought it proper to justify his Conduct, by saying, 'That he was in those Days but a young Man, and had wanted Opportunities to know the Dissenters, which he had had since, and found them to be an obstinate Sort of People, never to be satisfied; and voted against the Bill.*

Bp of London. The Ld Bishop of *London* (a) urged, 'That in all wise Governments, all Offices and Places of Trust are in the Hands of those of the National Church; which his Lordship confirmed by what is practised in *Sweden*.' The Bishop of *Ro-*

Bp of Rochester. *chester* said, 'That he was not in the House at the first Reading of this Bill; but that the last Session he foresaw from the Bill about a Work-House at *Bristol*, [See p. 93] and the Bill for applying Part of the Fund for the building of 50 new Churches, to the rebuilding of an old one, [See p. 90] both which he had opposed, that something of this Nature would be attempted: That he was sorry he had been a Prophet, since, in his Opinion, this Bill overturned the Foundation of the Security of the Church: That this Bill even struck at the Act of Uniformity, which was confirmed by the Act of Union, and so was levelled against the Church of *Scotland* as well as against the Church of *England*; for which Reason he hoped those Peers, who represented the Nobility of *Scotland*, would be against this Bill, particularly a Noble Lord, who was too great an Enemy to Priest-Craft, to suffer himself to be Assembly-ridden. His Lordship concluded, That we live in a changeable Country, and the Hardships which the Dissenters bring now upon the Church, may, one Day or other, be severely, and with more Justice, retaliated upon them.' Hereupon the Bishop

Bp of Peterborough. of *Peterborough* (b) spoke strenuously for the Bill; he said, 'That he did not design to reflect on any of his Brethren for speaking against this Bill, because he supposed they did it out of a sincere Zeal for the Church; that, for his Part, he did not believe this Bill to be against the Church, but rather for its Advantage and Security, and therefore he was for it: That he observed from History, that the Church was most safe and flourishing when the Clergy did not affect more Power than falls to their Share, and were tender of the Rights and Liberties of their Fellow-Subjects; but that when the Clergy promoted arbitrary Measures and Persecutions, as some did in King Charles I. Reign, they first brought Scandal and Contempt upon the Clergy, and, at last, Ruin both upon Church and State. Hereupon his Lordship shew'd the

(a) Dr John Robinson.

(b) Dr White Kennet.

the Abuse of the Word *Church*, which, in a true Sense, is Anno 5. Geo. 1.
venerable; and illustrated the Matter by the Words *Holy*,
and the *Temple of the Lord*, which were sacred among the
1718.

Jews; but when those Words came to be abused so far as to countenance Rebellion, as in the Case of *Dathan, Korah, and Abiram*, and other wicked Practices, then they rather became Words of Execration. That in like Manner amongst us, the Words *Church*, and the *Church's Danger*, had often been made Use of to carry on sinister Designs; and then these Words made a mighty Noise in the Mouth of silly Women and Children; but that, in his Opinion, the Church, which he defined to be a Scriptural Institution upon a legal Establishment, was founded upon a Rock, and could be in no Danger as long as we enjoyed the Light of the Gospel, and our excellent Constitution. After this his Lordship gave his Reasons for his being for this Bill; and animadverted upon three Things that had been advanced by three other Prelates, viz. 1st, *That the Dissenters got more than the Church by the Revolution, tho' they had the least Share in it.* For his Lordship shewed they only got a Toleration, which they might have had under King *James*, if they would have complied with his Measures; whereas the Church secured all she now enjoys, which would have been irrecoverably lost, had not the Revolution happened. 2dly, *That the Churchmen, and even the Clergy shew'd more Affection to the present Government than the Dissenters during the late Rebellion:* To which he answered, That by the Laws, which by this Bill were to be repealed, the Dissenters were then under an Incapacity to serve the Government, which evinced the Necessity of this Bill; and as for a Clergyman, who had given signal Proofs of his Zeal for the Government in the North, that it was well known he was never rewarded for it, but rather disregarded ever since by his Neighbours. 3dly, As to what had been suggested, *That all Offices and Places of Trust, ought to be in the Hands of those of the established Church*, his Lordship said, 'He hop'd they should never draw Precedents from *Sweden*. He concluded with returning Thanks to the Lay-Lords, for bearing so long and so patiently with that Bench, leaving the Issue of this Debate to their Judgments; and only taking Notice, that as the Wisdom of *Solomon* never more eminently appeared, than in discovering the true Mother of the Child, so their Lordships might easily know the Reason, why some Persons spoke with so much Tenderness for the Acts, which, by this Bill, were to be repealed.' The Bishop of *Chester* (a) Bp of Chester. was of the contrary Opinion, and excepted against a Clause

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O

m

(a) Dr Francis Gastrell,

Anno 5. Geo. I.
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in the Bill, whereby a Punishment or Censure was to be inflicted on such Clergymen as should refuse to administer the Sacrament to any that desired to receive it, which, his Lordship said, was against the Canons of the Church.

The Bishops having done speaking, the Lord *Lanfdow*n stood up and spoke as follows :

My Lords,

Ld *Lanfdow*n.

‘ Having never trespassed on your Patience before, I may hope for the readier Excuse, if I trouble you for once, and I give you my Word, that no Indulgence shall encourage me to make a Custom of it.

‘ I always understood that the Toleration was meant as an Ease to tender Consciences, and not an Indulgence to hardened ones. The Act to prevent Occasional Conformity corrects only a particular Crime of particular Men ; it concerns no other Set of *Dissenters*, but those Followers of *Judas* who came to the *Lord’s Supper* to sell and betray him ; this Crime, however palliated or defended, even by some Reverend Fathers of the Church, is no less than making the God of Truth as it were in Person subservient to Acts of Hypocrisy ; no less than sacrificing the Mystical Body and Blood of our Saviour to worldly and sinister Purposes. An Impiety of the highest Nature, which in Justice calls for Correction, and in Charity for Prevention. -

‘ The bare receiving the Holy Eucharist could never be intended simply as a Qualification for an Office, but as an open Declaration, and indubitable Proof of being a sincere Member of the Church. Whoever presumes to receive it with any other View profanes it, and may be said to seek his Preferment in this World, by eating and drinking to his own Damnation in the next.

‘ It is very surprizing to hear the Merit of *Dissenters* so highly extolled and magnified within these Walls ; for who is he amongst us, that cannot tell of some Ancestor either sequester’d or murder’d by them. It is notoriously known, that they brought the Royal Martyr to the Block ; but to extenuate that Guilt in favour of the *Presbyterians*, it seems to be insinuated by a very learned Lord, that they perform’d good Offices at last, and were Instruments of the Restoration. What Offices, what Instruments, upon what Terms did they resort to the King ? Upon no better than their Brethren the *Scots* had invited him before, to have an insignificant Tool of a King, a Cypher of a King, to walk in their Leading-strings. To restore themselves, not him to Dominion, was their only Aim ; they groaned under the Oppression of other Sectaries, after having been themselves the greatest Oppressors of Mankind ; nor had they any other

Means

Means of arriving at Deliverance (or Revenge rather) but Anno 5. Geo. I. by recovering Royal Power under a nominal King. This, General Monk well knew, who was privy to their Intrigues, and hence arose all the Difficulties that incumbered him in the Prosecution of his own Scheme: He was under a Necessity of making use of their Discontent, and could neither intirely trust or throw them off: But that the Monarchy was restored free and independent, the Church re-established pure and undefiled, was owing to his Virtue and good Conduct; no Thanks to the *Presbyterians*.

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‘ Nor was K. Charles scarce warm in his Throne, before they broke out into a new Rebellion, and continued incessant Disturbers of his whole Reign, sometimes with sham Plots, and sometimes with real ones.

‘ It was likewise observed by the same learned Lord, that they were hardly used, fined, banished, and imprisoned. Be it so, but it was not upon a Religious Account; they might be punished for Breach of the Law, disturbing the publick Peace, for illegal Meetings and Assemblies, and other State Crimes; but what was there more in that than the present Case of the *Nonjurors*?

The Clemency of that Reign, even to *Dissenters*, has been sufficiently vindicated by a noble Earl, [*the Earl of Nottingham*] who was call’d up, by some Reflections which fell from a reverend Prelate, to give an Account of the intended Comprehension. The Church open’d her Arms, the Clergy and Prelates, the King condescended to invite them with all the Temptations of Indulgence and Christian Charity; but what was the Return? Nothing but a morose haughty Deportment, severe Contradictions or fullen Evasions; they scorned to enter our Churches as Brethren and Fellow-Christians, but as Conquerors and Plunderers; they have no Grace but what is founded in Dominion. Their Behaviour in the subsequent Reign of K. James, is fresh in every one’s Memory; that unhappy Prince was undone by giving Attention to their Addresses, and depending upon their Promises.

‘ But ’tis said they have been not only quiet since, but have appear’d zealous for the present Establishment, and no wonder; for who but themselves or their Favourers, have been thought worthy to be countenanced.

‘ A noble Lord inquiring into the Reason of the present universal Discontent (for such I find it is agreed to be on all Hands) has been pleased to impute it to Mis-conduct in the Administration; a little unluckily, I confess, since it was answer’d, That at the Time when that Discontent most flamed, his Lordship himself was at the Head of the Administration.

Anno 5. Geo. I.

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‘ Another noble Lord very deservedly in a high Station, charg’d it upon Fate, the Malignity of the Stars, a certain unaccountable Disposition in the Heavens, for which there is no apparent Reason nor Remedy.

‘ But the Reason is plain, flagrant and notorious ; the early Impatience and Presumption of *Dissenters*, their insolent and undissembled Expectations, their open Insults of the Clergy, their fixing Bills on our Churches with this scandalous Inscription, *A House to be Lett* : Their publick Vindication of the Murder of *K. Charles* ; their vile Reflections on the Memory of *Queen Anne*, for ever dear to the People of *England* ; besides many other indecent arrogant Provocations (too many to enumerate) was too much to bear, so that the Violences that ensued let the Aggressors answer for : But then their acting all this not only with Impunity, but with a Reward out of the publick Treasure, was more than a sufficient Ground for Jealousy.

‘ A noble Duke seems with some Warmth to have taken Offence, that the *Roman Catholics* and *Dissenters* have been mentioned in the Debate upon the same Level, whereas their Religion is High Treason. But I never yet understood that their Religion was High Treason ; indeed I have heard that it might be High Treason to make Converts to it ; and by the same Reason the Reformed Religion may be High Treason in Popish Countries. But if we may compare them with the *Dissenters*, upon a Foot of Merit with respect to the Government, the *Catholics*, as far as has been yet made to appear, have infinitely the Advantage. To whom do we owe our *Magna Charta* ? To our ancient Barons unreform’d ; and were there not as many Struggles for Liberty before the Reformation as since ?

‘ To whom do we owe the Revolution but to Catholic Powers ? Even the Pope himself united to encourage and support the Prince of *Orange* in his Undertaking.

‘ To whom do we owe our present Security in the *Protestant* Establishment, but to the most potent, the most arbitrary, the most famous for Persecution of all the Popish Powers, the most inveterate and implacable Enemies of the *Protestant* Perswasion, *France*, *Savoy*, and the *Emperor* ? And have not the Ministers, one after another, assur’d us, that these mortal Enemies to our Souls in another World, are our only Guarantees for our Salvation in this ?

‘ Our *Protestant* Brethren, the *States*, were neither consulted nor intrusted, but seem to have been left like Slaves to follow the Dictates of *Great Britain* and *France*, and to accede implicitly at their Peril ; they have however thought fit hitherto to continue *Dissenters*, tho’ perhaps they may in Time occasionally conform, as Circumstances may happen

pen to prefs. But 'till then, our only trufty Allies are our Anno 5. Geo. I.
good Catholick Friends. 1718.

‘ If any Man can fay as much for the *Dissenters*, let him fpeak ; the reverend Prelates who have exerted in this Debate, having been prepar'd to fulminate againft the Teft, without being admitted into the Secret of withdrawing the Queftion, have unfortunately imploy'd their Quivers in the Air.

‘ One indeed there is *, who muft not be forgot, who wandering beyond the reft in a long Historical Collection from Pamphlets and Libels, has let himfelf loofe againft the Sacred Memory of the Royal Martyr ; he has accused him, if not of all *Popery*, of half *Popery*, very near *Popery*, almoft all *Popery* ; why would he not fpeak out ? For what means this School Difinction, betwixt almoft all a *Papiſt*, and quite. Hard Fate of the beft of Men and of Kings !

‘ He who renounc'd the Purple to preferve the Lawn, who dyed for the Church, and who is commemorated as a Martyr for the Church, is yet expos'd within an Age after his Defcent from the Scaffold to the Grave, to be murder'd over again in Fame, even in the fupreme Court of Judicature, by a Succeffor in that venerable Order, that very Epifcopacy, for which he facrificed his Liberty, his Life, his Crown !

‘ The execrable Wretch who fever'd his Head from his Body, perform'd the inhuman Office in a Mask ; but this holy Executioner, who cuts what the Axe could not hurt, what the Regicides could not take from him, his good Name, has not been afham'd to attempt it bare-fac'd. It grieves me, that this Animadverſion ſhou'd fall to my Lot, to the Lot of any private Lord : I was in Hopes a general Indignation would have warm'd this noble Aſſembly, to have made it their own Aft to reprehend ſuch irreverend Slanders, as would have much better become a Defcendant from *Bradshaw*, than a Succeffor of *Laud* ; but I ask Pardon, this unlucky Reflection may have tranſported me too far. In a Word, that I may not appear prejudiced to Merit in any Man, I will conclude, with this Motion, that a Liſt be laid before us of ſuch *Dissenters* by Name, as have in any Kind merited from the Publick, and I will moſt readily come into any Meaſures that may diſtinguiſh them and their particular Service.

‘ God forbid but that they ſhould all have their Deſerts.

A little paſt Six in the Evening, the Queſtion was called for, and as ſome other Temporal Lords were going to ſpeak to

Anno 5. Geo. I. 1718. to it, the Earl of *Aylesford* moved for adjourning the Debate till the next Day, which was agreed to.

On the 19th the Lords resumed the adjourned Debate; and the House being cleared of all Strangers, The Earls of *Aylesford*, *Nottingham*, and *Cowper*, the Duke of *Devonshire*, the Lord Viscount *Townshend*, the Lord *Trevor*, the Lord Archbishop of *Canterbury*, the Lord Bishop of *Rockefter*, and some others made Speeches against the Bill; but were answered by the Earls of *Sunderland* and *Stanhope*, Dukes of *Newcastle*, *Kent* (a) and *Roxburgh*, the Lord *Cholmondeley*, the Bishop of *Norwich* (b); and the Question being at last put, whether the Bill be committed, it was carried in the Affirmative by a Majority of 86 Voices against 68, viz.

E. of Aylesford.					
E. of Nottingham.					
E. Cowper.					
D. of Devonshire.					
Ld Townshend.					
Ld Trevor.					
Abp. of Canterbury.					
Bp of Rochester.					
E. of Sunderland.					
E. Stanhope.					
D. of Newcastle.					
D. of Kent.	Content,	67	} 86	Not-Content,	50
D. of Roxburgh.	Proxies,	19		Proxies,	18
E. of Cholmondeley.					
Bp of Norwich.					

The said Bill
pass'd,

The next Day the Lords, in a grand Committee, examined and went through the Bill, Paragraph by Paragraph, and the Reasons offered by Earl *Cowper*, and some other Peers, had so much Weight, that some Clauses derogatory to the Test and Corporation Acts were agreed to be left out. Then the Question being put, That this Bill, thus amended, be reported the *Monday* following; it was carried in the Affirmative by 55 Voices against 33. Accordingly on the 22d of *December*, the said Amendments were reported, agreed to, and the Bill ordered to be engrossed; and the next Day it was read the third Time, pass'd; and sent down to the Commons*; after which the Lords adjourn'd to the 7th of *January*.

The next Affair that excited the Attention of the Publick, was the following:

Debate on the D. of Somerset's Motion for a Bill to settle the Peerage. *February* 28. The Duke of *Somerset* represented, 'That the Number of Peers being of late Years very much increased, especially since the Union of the two Kingdoms, it seemed absolutely necessary to fix the same; both to preserve the Dignity of Peerage, and to prevent the Inconveniencies that may attend the Creation of a great Number of Peers to serve a present Purpose, of which they had a remarkable Instance in the late Reign: And mov'd for bringing in a Bill to settle and limit the Peerage, in such a Manner, that the Number of *English* Peers should not be enlarged beyond Six above the present Number, which, upon Failure of Male Issue might be supplied by new Creations; and that instead of the Sixteen elective Peers, Twenty five be made Hereditary on the Part of *Scotland*, whose Number, upon Failure of Heirs Male,

(a) Lord Steward of the Household.

(b) Dr Charles Trimmell; translated to Winchester in September 1721.

* See the Debate there on this Bill, with the Names of the Members that voted Pro and Con, in Chandler's History of that House,

Male, should be supplied by some other *Scots Peer*.' The Duke of *Argyle* seconded this Motion; which was also back'd by the Earls of *Sunderland* and *Carlisle*, which last added, 'That this was a Matter of so great Importance, that it became the Wisdom of that august Assembly maturely to consider of it, before they came to any Resolution; and thereupon his Lordship moved for the adjourning the Debate to the *Monday* following, and that the Peers in and about Town, might be summoned to attend.' The Earl of *Oxford* excepted against the Duke of *Somerset's* Proposal, and, among other Things, said, 'That as it tended to take away the brightest Gem from the Crown, it was Matter of Wonder to see it supported by those, who, by the great Employments they enjoyed, seem'd under the strictest Obligation to take Care of the Royal Prerogative; that therefore there must be a secret Meaning in this Motion; but for his own Part, tho' he expected nothing from the Crown, yet he would never give his Vote for lopping off so valuable a Branch of the Prerogative, because this would put it out of the Power of the Crown to reward Merit and virtuous Actions.' To this the Earl of *Sunderland* answered, That tho' the Number of Peers were limited, yet the Crown would still be the Fountain of Honour, and preserve its Prerogative of creating new Peers, upon the Extinction of old Titles, for want of Male Issue, which happened frequently; and that those Extinctions would give the Prince on the Throne sufficient Opportunities to bestow Honours upon Commoners of distinguished Merit and Abilities. His Lordship concluded with backing the Earl of *Carlisle's* Motion, and no Member opposing it, the Debate was adjourned accordingly.

March 2. Lord *Stanhope* delivered to the House the following Message from the King.

GEORGE R.

HIS Majesty being informed, that the House of Peers have under Consideration the State of the Peerage of *Great Britain*, is graciously pleased to acquaint this House, that he has so much at Heart the settling the Peerage of the whole Kingdom, upon such a Foundation, as may secure the Freedom and Constitution of Parliament in all future Ages, that he is willing his Prerogative stand not in the Way of so great and necessary a Work.'

Then a Motion being made for an Address of Thanks for the said Message, the Earl of *Nottingham* excepted against it, saying, 'It was unusual for the King to take Notice of any Thing depending in Parliament, before the same was laid

Anno 5. Geo. I.
1718-19.
D. of Argyle.
E. of Sunderland.
E. of Carlisle.

E. of Oxford.

E. of Sunderland

King's Message
relating to the
Peerage Bill.

Anno 5. Geo. I.
1718-19.

D. of Bucking-
ham.

laid before his Majesty in a Parliamentary Way. But the Duke of *Buckingham* over-ruled this Objection, and said, ' It could not be supposed, that the King alone should be ignorant of what every Body else knew; and that since his Majesty was pleased, for the good of his Subjects, to suffer his Prerogative to be restrained, they ought readily to accept, and thankfully to acknowledge so great and so gracious a Condescension. Hereupon it was agreed, without dividing, to present an Address of Thanks to his Majesty; but some Words having pass'd between two Noble Lords about this extraordinary Message, the House thought fit to interpose, and require from them, that the whole Affair should go no farther; and the intended Debate was adjourned to the next Day.

E. of Sunderland.

E. Cowper,

Morb 3. The Lords, in a Committee of the whole House, of which the Earl of *Clarendon* was Chairman, took into Consideration the present State of the Peerage of *Great Britain*; and the Earl of *Sunderland* run over the several Changes that have happened in the Peerage since the Reign of Queen *Elizabeth* to this Time; urging the Necessity of limiting the Number of Peers; and demonstrated the Advantage of the Scheme proposed by the Duke of *Somerset*. Hereupon the Earl *Cowper* endeavoured to shew, That what was intended to be done, with Relation to the *Scots* Peerage, was a manifest Violation of the Treaty of Union; and the highest Piece of Injustice; for it was no less than to deprive Persons of their Right without being heard, and without any Pretence of Forfeiture upon their Part; urging, That the *Scots* Peers, who should be excluded from the Number of the Twenty five Hereditary, would be in a worse Condition than any other Subjects, since they would neither be electing nor elected, neither representing nor represented, which could not fail of raising dangerous Discontents amongst them; that, besides, it would be a Breach of Trust in those who represented the *Scots* Peerage, wholly to divest their Principals of a Power, with which they had entrusted them only for a few Years; and therefore his Lordship was of Opinion, that the *Scots* Peers ought to have been consulted, before any Steps were made in so nice and so important an Affair.

E. of Sunderland
E. Stanhope.
E. of Cholmon-
deley.

E. Poulet.
D. of Bucking-
ham.

D. of Newcastle.

Bp of Gloucester.

D. of Roxburgh.

D. of Montrose.

M. of Annandale

E. of Ilay.

These Objections were reply'd to by the Earls of *Sunderland* and *Stanhope*, *Cholmondeley* and *Poulet*, the Dukes of *Buckingham* and *Newcastle*, the Bishop of *Gloucester*, and some other *English* Lords, who were supported by several *Scots* Peers, particularly the Dukes of *Roxburgh* and *Montrose*, the Marquis of *Annandale*, and the Earl of *Ilay*. In the first Place, it was alledg'd, That the settling the Peerage in the Manner propos'd, was rather a Benefit than a Dis-

advantage

advantage to the *Scots* Peerage, whose Representatives were Anno 5. Geo. I. thereby increas'd by nine, and all made hereditary; and as for those Peers who for the present would be excluded, they would afterwards have a Chance to come in, upon Failure of any of the twenty-five: That this Regulation could not be look'd upon as a Violation of the Union, two Things only being made unalterable Fundamentals of that Contract, *viz.* Religion, and the Proportion of publick Taxes; to prove which, several Articles of the Act of Union were read: And that the consulting of the *Scots* Peers in this Affair, would be altogether improper and unparliamentary, and attended with great Inconveniencies.

1718-19.

The Earl of *Hay*, in particular, represented, ' That the bringing in a Number of Peers into that House by Election, was certainly derogatory to the Dignity of that august Assembly, and of the highest Tribunal in the united Kingdom; and therefore he had long before wish'd to see this Defect in the Union rectify'd, and the *Scots* Peers freed from that ignominious Mark of Distinction, which made them be look'd upon as dependent on the Court and Ministry, and not at Liberty to vote, like the other Members, for the Good and Interest of their Country.

E. of Hay.

The Earl of *Nottingham* and the Lord *Townshend* declar'd, ' That they were not against limiting the Peerage, but only against the doing it in a Manner, which, in their Opinion, was unjust, and might be attended with dangerous Consequences; but after a Debate that lasted till near seven in the Evening, by a Majority of 83 Votes against 30, their Lordships came to the following Resolutions, *viz.*

E. of Nottingham.

Ld Townshend.

I. ' That in Lieu of the sixteen elective Peers, to sit in this House on the Part of *Scotland*, twenty-five Peers, to be declar'd by his Majesty, shall have hereditary Seats in Parliament, and be the Peers on the Part of the Peerage of *Scotland*.

Resolutions relating to the Scots Peers.

II. That such twenty-five Peers shall be declar'd by his Majesty, before the next Session of Parliament.

III. That nine of the said twenty-five shall be appointed, by his Majesty, to have immediate Right to such hereditary Seat in Parliament, subject to the Qualifications requisite by the Laws now in Being.

IV. That none of the remaining sixteen so to be declar'd by his Majesty, or their Heirs, shall become sitting Peers of the Parliament of *Great Britain*, before the Determination of this present Parliament, except such as are of the Number of the sixteen Peers now sitting in Parliament on the Part of *Scotland*, and their Heirs.

V. That if any of the twenty-five Peers, so to be declar'd by his Majesty, and their Heirs, shall fail, some one or

1719.

P

other

Anno 5. Geo. I. 1718-19. other of the Peers of *Scotland* shall be appointed by his Majesty, his Heirs and Successors, to succeed to every such Peer so failing; and every Peer so appointed shall be one of the Peers on the Part of the Peerage of *Scotland*, in the Parliament of *Great Britain*, and so, *toties quoties*, as often as any such Failure shall happen.

VI. That the hereditary Right of sitting in Parliament, which shall accrue to the twenty-five Peers of *Scotland*, to be declar'd by his Majesty, shall be so limited as not to descend to Females.

March 4. The Lords, in a Grand Committee, took into farther Consideration the present State of the Peerage of *Great Britain*, and, without dividing, came to the following Resolutions in Relation to the *English* Peers, *viz.*

And to the English Peers.

I. That the Number of Peers of *Great Britain*, on the Part of *England*, shall not be enlarged, without precedent Right, beyond six above what they are at present; but as any of the said present Peers, or such six new Peers, in case they be created, shall fail, their Number may be supply'd by new Creations of Commoners, natural-born Subjects of this Kingdom; and so *toties quoties*, as often as such Failure shall happen.

II. That no Person be at any Time hereafter created a Peer by Writ, nor any Peerage granted by Patent, for any longer Estate than for the Grantee, and the Heirs Male of his Body.

III. That there be not any Restraint on the Crown, to create any of the Princes of the Blood Peers of *Great Britain*, with Right to sit in Parliament.

IV. That whenever any of the Lords now sitting in Parliament, whose Sons have been call'd by Writ, shall dye, then it shall be lawful for his Majesty, his Heirs and Successors, to create a Peer to supply the Number so lessen'd.

V. That every Creation of a Peer hereafter to be made, contrary to these Resolutions, shall be null and void to all Intents and Purposes.

A Bill order'd accordingly.

On the 5th of *March*, the Earl of *Clarendon* reported these five, and the six former Resolutions to the House, which being agreed to, the Judges were order'd to bring in a Bill thereupon; which they did accordingly on the 14th of *March*, when the said Bill was read the first, and order'd to be read a second Time.

March 10. The King came to the House of Peers, and made a Speech to both Houses, wherein his Majesty inform'd them, That he had received repeated Advices from the King of *France*, that an Invasion would suddenly be attempted from *Spain* in Favour of the Pretender: Hereupon the House

House voted the following Address to his Majesty, which Anno 5. Geo. I. was presented the next Day.

1719.

Most Gracious Sovereign,

WE your Majesty's most dutiful and loyal Subjects, Address of
the Lords Spiritual and Temporal in Parliament Thanks for the
assembled, beg Leave to return your Majesty our humble King's Speech
Thanks for your most gracious Speech from the Throne, relating to an
in which your Majesty has been pleased to communicate Invasion from
to your Parliament, that you have received repeated Ad- Spain.
vices from the most Christian King of an intended Invasion
from *Spain*, of your Majesty's Dominions, in Favour of
the Pretender to your Crown; and we do likewise beg
Leave to assure your Majesty, that this House will, upon
this and all other Occasions, stand by and assist your Ma-
jesty, with the utmost Zeal, in Support and Defence of
your sacred Person and Government, in Opposition to all
your Enemies.

His Majesty's Most Gracious Answer was as follows :

My Lords,

I Thank you kindly for this seasonable Mark of your His Majesty's
Zeal for my Person and Government, which can- Answer.
not fail of heartening our Friends, and discouraging our
Enemies."

About this Time there was printed, and deliver'd to most of the Peers, a List of the Peers existing at the Time of the Accession of King *James I.* to the Crown, and of those who have since been advanced to the Peerage by Claim of ancient Right, by Writ, or, by Patent; as also of the several Peers extinct in his and the succeeding Reigns. By this it appears, that,

At the Death of Queen <i>Elizabeth</i> , the Number of Eng- State of the			
<i>lish</i> Peers was			Peerage at this
K. <i>James I.</i> created	59	Extinct 17	Added 45
K. <i>Charles I.</i>	62	21	38
K. <i>Charles II.</i>	59	53	11
K. <i>James II.</i>	64	8	0
K. <i>William and Q. Mary</i>	8	21	9
<i>Q. Anna.</i>	30	24	6
K. <i>George.</i>	30	10	10
	20		
	332	154	119
Extinct	154		
Remains	178		

Anno 5. Geo. I.
1719.

And that the Number of Peers was at the Time of this Debate as follows,

The Prince of <i>Wales</i> and the Duke of <i>York</i>	—	2
Dukes	—	22
Earls	—	73
Viscounts	—	13
Barons	—	68
		178
Archbishops and Bishops	—	26
Peers on the Part of <i>Scotland</i>	—	16
		220

Petition against
the Peerage Bill,

March 16. The Lords having read a second Time the Peerage Bill, three *Scots* Lords, *viz.* The Earls of *Dun-*
donald and *Aberdeen*, and Lord Viscount *Faulkland*, petition'd to be heard by their Counsel against the said Bill: The Earl *Cowper*, who presented this Petition, spoke in Favour of it, and was supported by the Earl of *Nottingham*; but opposed by the Earl of *Sunderland*. And the Lord *Harcourt* having represented, That the Lords being sole Judges of what relates to the Peerage, they could not allow their Rights and Privileges to be question'd and canvass'd by Lawyers; and having to that Purpose cited a Precedent, *viz.* the Case of the late Duke of *Hamilton*, when he claim'd a Seat in that House as Duke of *Brandon*, the said Petition was rejected without dividing.

Which is drop'd.

April 2. A Motion being made to receive the Report from the Committee of the whole House, upon the Bill for settling the Peerage of *Great Britain*, the same was put off to the *Monday* following, when the Amendments made to the said Bill were agreed to, and the Bill ordered to be engrossed: But on *Tuesday* the 14th, the Day appointed for the third Reading, Lord *Stanbop* observed, ' That this Bill had made a great Noise, and rais'd strange Apprehensions; and since the Design of it had been so misrepresented, and so misunderstood, that it was like to meet with great Opposition in the other House, he thought it adviseable to let that Matter lie still till a more proper Opportunity: ' Thereupon the third Reading of the said Bill was put off to that Day Fortnight. By this Resolution the said Bill was dropt for this Session.

Resolution against the issuing of Money out of the Chamber of London, touching Elections.

April 17. A long Report was made from a Committee, appointed to examine what Sums of Money have been issued, or order'd to be issued out of the Chamber of *London*, for the prosecuting, defending, or maintaining certain Causes or Writs of Error in this House, or any other Causes of the like

like Nature, for such Time passed as the Committee should think proper, and by what Warrant or Authority, and on whose Application. And after Debate had thereupon, the Question was put, that it is the Opinion of the House, that the Common Council of *London*, having issued great Sums of Money out of the Chamber of *London*, in maintaining several Suits of Law between Citizen and Citizen, relating to controverted Elections, have abused their Trust, and been guilty of great Partiality, and of a gross Mismanagement of the City Treasure, and a Violation of the Freedom of Elections in the City. It was resolved in the Affirmative by 46 against 17.

Anno 5. Geo. I.
1719.

Dissentient

I. Because no Proof upon Oath was made before the Committee, of any one of the Facts mentioned in the Report; and we conceive, that without a due Proof, upon Oath, being first made, so heavy a Censure ought not to be passed on any Person whatsoever, much less on so considerable a Body as the Common Council of the City of *London*, who have been, on many pressing Occasions, eminently serviceable to the Publick.

II. Because the Common Council of the City of *London* have never been heard to the several Matters of which they stand condemned by this Resolution, nor have they been any Way made acquainted, as far as appears to us, that they stood accused before this House of any Misbehaviour whatsoever.

III. Because the several Matters or Offences, specified in this Resolution, are properly cognizable in Courts of Law or Equity; and this Resolution may, we fear, be construed as a Determination of such Matters as may possibly hereafter be brought again before this House judicially, by Writ of Error or Appeal.

IV. Because the several Sums of Money, mentioned in the Report to have been issued by the Common Council out of the Chamber of the City of *London*, in Relation to controverted Elections, might possibly, had the Common Council been heard, have appeared to have been so issued by them, in Defence of their antient Rights and Privileges, and in order to prevent any Incroachment thereupon.

Buckingham, Montjoy, Harcourt, Mansell, Bathurst, Bingley, Compton, Trevor, Gower, Strafford, Carleton, Bruce, Oxford, Weston, Northampton, Foley.

April 18. The King came to the House, and prorogued the Parliament to the 19th of *May*: They were afterwards farther prorogued to the 23d of *November*.

Anno 6. Geo. I.
1719.

**Address of
'Thanks for the
King's Speech at
opening the fifth
Session.**

‘ We shou’d be wanting in our Duty to your Majesty and
‘ our Country, if we did not return your Majesty our most
‘ hearty Thanks for that tender and unprecedented Care
‘ and

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‘ and Concern your Majesty has been pleased to express in your most gracious Speech from the Throne, for the Liberties of your People, and the Freedom of our happy Constitution ; which must necessarily draw all suitable Returns of the utmost Gratitude from all your Majesty’s faithful Subjects, who have a true Value for such inestimable Blessings.’

Anno 6. Geo. I.
1719-20.

To this the King gave the following Answer.

My Lords,

“ **T**HE Sense you express in this dutiful Address of His Majesty’s my Endeavours for the Common Good, is most acceptable to me. The Assurances of your Support will very much contribute towards bringing about the great and good Ends we have in View: And you may depend upon the Continuance of my best Offices, every where, in Behalf of the Protestant Cause and Interest.”

On the 25th the Duke of *Buckingham* brought into the House, the Bill of Peerage, which was read the first Time ; and being read the second Time the next Day, upon a Motion that the same be committed, the Earl *Cowper* said, ‘ That besides the Reasons that induc’d him last Session to be against this Bill, he had now another, that weigh’d no less with him than all the rest, *viz.* The Earnestness with which it was recommended, and the Eagerness with which it was brought before them, at the Beginning of a Session : That he had observ’d both from History, and his own Experience, that in Affairs of Moment, Precipitation was ever dangerous, and, in many Cases, to be suspected ; and for his own Part, he could not help being of Opinion, that if there were no Secret Meaning in this Bill, some Men would not be so pressing for it.’ To this the Earl of *Sunderland* answer’d, ‘ That it could not with any Justice be said, that any Precipitation had been us’d in this Affair, since the Bill in question had been brought in the last Session, and then thoroughly examin’d ; so that he doubted not, but every Member of that House was fully appriz’d of it, and ready to give his Vote for or against it : That the Reason why it was brought in so soon at this Time, he conceiv’d to be that it might give no Interruption to the other important Affairs which the King had recommended to his Parliament : And as for any secret Meaning in this Bill, his Lordship solemnly declar’d, That he knew of no other, but what his Majesty had been pleas’d graciously to intimate in his Speech, *viz.* The securing the Freedom of our Constitution, by preventing, for the future, the Abuse of one

D. of Buckingham brings in the Peerage Bill. Debate thereon. Earl Cowper.

E. of Sunderland.

Branch

Anno 6. Geo. I.
1719-20.

D. of Bucking-
ham.

The Peerage
Bill pass'd, but
rejected by the
Commons.

A Bill order'd in
for the better se-
curing the De-
pendency of Ire-
land upon the
Crown of Great
Britain.

Branch of the Royal Prerogative, of which they had a fatal Instance in the last Reign, and which had given just Offence, and terrible Apprehensions to all sober Men. To this it was reply'd, That if it was foreseen that Bill might interrupt the other important Affairs, it had been advisable, to keep it till the Middle, or towards the End of the Session, and to begin with the King's Business: Hereupon the Duke of *Buckingham* said, ' That for his own Part he apprehended no Danger from this Bill, and if it was attended with any Inconveniencies, as all Human Affairs are apt to be, Time would discover it; and then, as in all other Cases, they might apply a Remedy to it. As to the Time of bringing of it in, his Grace thought it no material Objection, since this House had no other Business to go upon: But that he foresaw, that whatsoever Dispatch they made in that Bill, it would not get so quick a Passage in the other House. Hereupon the Bill was committed to a Committee of the whole House, who went through it the next Day; and on the 28th, the Earl of *Clarendon*, Chairman of that Committee, having made his Report, the same was agreed to, and the Bill order'd to be ingross'd. On the 30th of this Month, the Lords read the said Bill the third Time; and pass'd the same, and order'd it to be sent down to the Commons; who after a long Debate rejected * the same by a great Majority.

January 28. The Lords order'd a Bill to be brought in *for the better securing the Dependency of Ireland upon the Crown of Great Britain* †.

February

* For the Debate at Large, with the Names of the Members of the House of Commons who voted PRO and CON, See CHANDLER'S History and Proceedings of that House.

† The following is an Abstract of the said Bill, viz.

' Whereas Attempts have been lately made to shake off the Subjection of Ireland unto, and Dependence upon the Imperial Crown of this Realm, which will be of dangerous Consequence to Great Britain and Ireland;

' And whereas the House of Lords in Ireland, in order thereto, have, of late, against Law, assumed to themselves a Power and Jurisdiction to examine, correct, and amend the Judgments and Decrees of the Courts of Justice in Ireland: Therefore, for the better securing of the Dependency of Ireland upon the Crown of Great Britain, Be it Enacted by, &c. That the said Kingdom of Ireland hath been, is, and of Right, ought to be subordinate unto, and dependent upon the Imperial Crown of Great Britain, as being inseparably united and annexed thereunto; and that the King's Majesty, by and with the Consent of the Lords and Commons of Great Britain, had, hath, and, of Right, ought to have full Power and Authority to make Laws and Statutes of sufficient Force and Validity to bind the People and the Kingdom of Ireland. And be it farther Enacted, That the House of Lords of Ireland have not, nor, of Right, ought to have, any Jurisdiction to judge

Feb. 22. The said Bill was read the third Time, and pass'd. † Anno 6. Geo. I.

To give the Reader a clearer Idea of this Affair, we shall take Notice, That on the 16th of *February*, 1717-18, the House of Lords, upon the Report from the Committee appointed to consider by what Methods the Order of the House, for restoring Possession to *Maurice Annesley*, Esq; of the Estate in *Ireland*, whercof he was dispossest'd, pending his Appeal in the House, (which was received by the House the Eighth Day of *June* 1717) might be most properly enforced and executed, ordered, That the Barons of the Exchequer in *Ireland*, should cause the said *Maurice Annesley*, Esq; to be forthwith restored to the Possession of the Lands of which he was dispossest'd. This Order was, by the Lord Chancellor of *Great Britain*, transmitted to the Lord Chief Baron of *Ireland*, to be, by him, communicated to the rest of the Barons, who, on the 15th of *March* 1717-18, caused an Injunction to be issued out, directed to *Alexander Burrowes*, Esq; Sheriff of the County of *Kildare*, requiring him to restore *Maurice Annesley*, Esq; to the Possession of the Lands in that County, whereof *Hester Sherlock* was then actually posses'd, by Virtue of an Order of the House of Lords of *Ireland*, dated the 3d of *October*, 1717. The High Sheriff having refused to execute the said Injunction, conceiving it to be a Breach of the Order, and of the Rights and Privileges of the *Irish* House of Peers, had several Fines set upon him by the Barons of the Exchequer; and, on the other hand, the House of Peers of *Great Britain*, upon Report from the Lords Committees, appointed to inquire into the Reason of the Delay, in not obeying the Orders of this House, relating to the Appeal of *Maurice Annesley*, Esq; and how the same might more properly be enforced, ordered, on the 23d of *January*, 1718-19, That the Barons of the Exchequer in *Ireland* be directed to proceed, by the most speedy and effectual Methods, to cause Possession of the Estate of the said *Maurice Annesley*, as required by Order of the House, of the 6th of *February* last, to be restored to him. At the same Time their Lordships order'd, That the Barons of the Exchequer in *Ireland* should cause the Respondent, *Hester Sherlock*, to account before them, upon Oath, for the Rents and Profits of the Estate in Question, which she had made or received, since her gaining the Possession

1719.

Q

session

judge of, affirm, or reverse any Judgment, Sentence or Decree given, or made, in any Court within the said Kingdom; and that all Proceedings before the said House of Lords, upon any such Judgment, Sentence, or Decree, are, and are hereby declared to be utterly null and void to all Intents and Purposes whatsoever.

† See the Debate thereon in *Chandler's History of the Commons*, Anno 1720, p. 214.

Anno 6. Geo. I. session thereof, by the Order of the House of Lords in
 1719-20. *Ireland*, and to answer and pay the same to the Appellant, *Maurice Annesley*, Esq; but without Prejudice to the Right, in Case of an Appeal to be brought by either Party, from the Decree of the Court of Exchequer in *Ireland*. These two Orders having, by the Lord Chancellor of *Great Britain*, been transmitted to the Barons of Exchequer in *Ireland*, commanding them to return, as soon as they could, an Account of what should be done therein: The said Barons thereupon order'd, on the 4th of *February*, 1718-19, That the Injunction of that Court should forthwith issue, directed to the said *Hester Sherlock*, and to the several and respective Tenants of the Lands in Question, requiring them quietly to restore to the said *Maurice Annesley*, the Possession of the said Lands. By Virtue of this Order, *Hester Sherlock* was dispossest'd of these Lands; and, on the other hand, upon the Petition of *Alexander Barrowes*, Esq; to the House of Lords of *Ireland*, their Lordships appointed a Committee to inquire into that Matter. Their Report being read and agreed to, on the 28th of *July*, 1719, their Lordships thereupon came to several Resolutions, the Substance whereof was, That the High Sheriff of *Kildare* had acted with Integrity and Courage, and a due Respect to the Orders of that House, in not obeying the Orders of the Court of Exchequer; That the Fines imposed upon him by the said Court be taken off; That the Barons of the said Court, *viz.* *Jeffrey Gilbert*, Esq; *John Pocklington*, Esq; and Sir *John St Leger* had acted in Violation of the Orders of that House, in Diminution of the King's Prerogative, as also of the Rights and Privileges of the Kingdom of *Ireland*, and the Parliament thereof; and order'd them into Custody of the Black Rod. In *November* 1719, the House of Lords of *Ireland* sent over a Representation to the King relating to this Affair, which, together with the above Proceedings, having been laid before the House of Lords of *Great Britain*, were read the 28th of *January*, 1719-20, when their Lordships resolved, That *Jeffrey Gilbert*, Esq; Lord Chief Baron of the Exchequer in *Ireland*, *John Pocklington*, Esq; and Sir *John St Leger*, Knight, the other Barons of the said Court, in their Proceedings in the Cause between *Annesley* and *Sherlock*, in Obedience to the Orders of this House, had acted with Courage, according to Law, in Support of his Majesty's Prerogative, and with Fidelity to the Crown of *Great Britain*; and order'd an Address to his Majesty, to desire that he would be graciously pleased to confer on them some Marks of his Royal Favour *.

The

* *Jeffrey Gilbert* Esq; was made a Baron of the Exchequer in England, May 24, 1722, and Lord Chief Baron of that Court, June 1, 1725.

The late Duke of Leeds's Reasons for protesting against a Anno 6. Geo. I.
Vote of the House of Lords in England, which declared a Try- 1719-20.
al, before the House of Lords in Ireland, to be CORAM NON
 JUDICE.

I. Because upon the Conquest of *Ireland* by *Henry II.* he introduced the Laws of *England* into that Kingdom, and sent them over the *Modus tenendi Parliamenta*, in *Terminis* the same with that of *England*: In which Record it is said, That such Things may be examined, and corrected in *pleno Parlamento*, & *non alibi*. Duke of Leeds's Protest on that Occasion.

II. Because in the 30th Year of King *Henry III.* it was provided, That all the Laws and Customs which are enjoy'd in *England* shall be in *Ireland*, and the said Lands shall be subject thereto, and govern'd thereby, *Sicut Dominus Johannes cum ultimo esset in Hibernia statuit & fieri mandavit; & quod omnia Brevia de communi Jure quæ currunt in Anglia similiter currant in Hibernia.*

III. Because it appears by other antient Records, *Quod Terra Hiberniæ intra se habet omnes & omnimodas Curias prout in Anglia.*

IV. Because King *Edward III.* in the 29th Year of his Reign, ordain'd, for the Quiet and good Government of the People of *Ireland*, that in all Cases whatsoever, Errors in Judgments, Records, and Process in the Courts of *Ireland*, shall be corrected and amended in the Parliament of *Ireland*.

V. Because a Conqueror, by the Laws of *England*, and of Nations, having Power to introduce what Laws he will in the conquer'd Country: And King *Henry II.* pursuant to that Power, having introduc'd the Laws of *England*, and particularly that of holding Parliaments in *Ireland*, the House of Lords in Parliament in *Ireland*, may proceed to hear and determine judicially such Matters which shall be brought before them, in the same Manner as the Lords in Parliament in *England*.

VI. Because, pursuant to many Concessions made by King *Henry II.* King *John*, King *Henry III.* and other Kings of *England*, the Lords of Parliament of *Ireland* have proceeded to correct and amend Errors in Judgments, and Decrees in the Courts of *Ireland*; as appears by the several Precedents certify'd over to your Lordships, and their Judgments never before call'd in Question: Many of them being irregular, and therefore presum'd to have been by a good and lawful Jurisdiction; otherwise they would have been, by our Ancestors, who were zealous Assertors of their Rights, long before this, call'd in Question.

VII. The Order declaring, that the Appeal was *coram non Judice*, and null and void, will call all other Judgments and Decrees in Question, under which many Estates have

Anno 6. Geo. I.
1719-20.

been purchased, settled and enjoy'd, which will be of fatal Consequences to many Families, and create Discontent and Dissatisfaction in that Kingdom.

VIII. Because the declaring the said Appeal to be *coram non Judice*, and null and void, strikes at, and tends to the Destruction of the Jurisdiction of this House: For *Ireland* having *omnes & omnimodas Curias prout in Anglia*, must include the high Court of Parliament; and being an exact Picture of the high Court of Parliament in *England*, if they cannot judicially hear and determine Appeals, Writs of Error, and Impeachments, it may be from thence alledged we cannot here.

IX. Because the Peers of *Ireland* had little else left them but their Judicature, which, if taken away, will be of little Esteem there, many of the Peers of *England* having some of their Titles of Honour from that Kingdom.

X. Because this Resolution strikes at and abridges the King's Prerogative in *Ireland*; all Appeals, and Writs of Error in Parliament being *coram Rege in Parlamento*: And therefore these Words, *coram non Judice*, take from the King the judicial Power which is given him there.

XI. Because it is the Glory of the *English* Laws, and the Blessing attending *Englishmen*, that they have Justice administered at their Doors, and not to be drawn, as formerly, to *Rome* by Appeals, which greatly impoverish'd the Nation: And by this Order, the People of *Ireland* must be drawn from *Ireland* hither, whensoever they receive any Injustice from the Chancery there, by which Means poor Men must be trampled on, as not being able to come over to seek for Justice.

XII. The Danger of altering, changing or lessening a Constitution (for above Five Hundred Years unshaken, or so much as call'd in Question) in any one Thing, the Custom and Usage of Courts being the Law of Courts, may occasion the Destruction of the Whole. The judicial Power of the House of Peers in *Ireland*, in criminal Causes, by Way of Impeachment, and otherwise, may, by the same Reason, be call'd in Question, as their Judicature in civil Causes; which will encourage evil-disposed Men, especially those in Employment in that Kingdom, who are generally very arbitrary, to act wickedly: And the better we preserve the Constitution of *Ireland*, and of those Plantations dependent on *England*, the better we shall preserve our own; and they will be a Barrier to ours, to prevent any Invasions of theirs. And since the Kings of *England* have, in all Times, in Matters relating to the Revenue, made their Grants, by Letters Patent, and not only impower'd the Parliament of *Ireland* to hear, correct, reform, and amend them, but also acquiesced in their Judgment, it ought not now to be question'd.

XIII. Be-

XIII. Because this taking away the Jurisdiction of the House of Lords in *Ireland*, may be a Means to disquiet the Lords there, and disappoint the King's Affairs, Anno 6. Geo. I.
1719-20.

XIV. Because the judicial Power of the House of Lords of *Ireland* is, in no Respect, altered by an Act of Parliament. The Statute of the 10th of *Henry VII. Cap. 4.* call'd *Poyning's Law* *, only directs a new Form of passing Bills into Laws, but alters nothing of the judicial Power; but neither allows or enables them to make the Laws as they please: And this will as well hold against the Jurisdiction of this House, which ought not to be suffered. L E E D S.

April 5. A Bill, *To enable the South Sea Company to increase their Capital Stock*, being read a second Time, Lord North and Grey said, ' That the Bill was unjust in its Nature, and might prove fatal in its Consequences; since it seem'd calculated for the enriching only a few, and the impoverishing many; and countenanced the pernicious Practice of Stock-jobbing, which diverted the Genius of the People from Trade and Industry.' The Duke of Wharton endeavour'd to evince, ' That the *South Sea* Project might prove of infinite Disadvantage to the Nation; first, as it gave Foreigners an Opportunity to double and treble the vast Sums they had in our publick Funds, which could not but tempt them to withdraw their Capital Stock, with their immense Gains to other Countries, which might drain *Great Britain* of a considerable Part of its Gold and Silver: Secondly, That the artificial and prodigious Rise of the *South-Sea* Stock was a dangerous Bait, which might decoy many unwary People to their Ruin, and allure them, by a false Prospect of Gain, to part with what they had got by their Labour and Industry, to purchase imaginary Riches; And, in the Third Place, that the Addition of above thirty Millions new Capital, would give such a vast Power to the *South-Sea* Company, as might endanger the Liberties of the Nation; since by their extensive Interest they might influence most, if not all the Elections, and consequently overrule the Resolutions of the House of Commons.'

Lord Cowper spoke also against the Bill, which, like the Trojan Horse was usher'd in, and receiv'd with great Pomp and Acclamations of Joy, but which was contrived for Treachery and Destruction. His Lordship urged in Particular, ' That in all publick Bargains, it is a Duty incumbent on them who are entrusted with the Administration, to take Care that the same be more advantageous to the State than to private Persons; but that a quite contrary Method

Debate on a Motion for committing the Bill to enable the S. S. Company to increase their Capital Stock.
Lord North and Grey.
D. of Wharton.

Ld Cowper.

* An Act made in *Ireland*, when Sir Edward Poyning was Lord Lieutenant, whereby all the Statutes of England were declared of Force in *Ireland*; which before that Time were not so.

Anno 6. Geo. I. Method seem'd to have been follow'd in the Contract made
 1720.

D. of Bucking-
 ham.
 E. of Sunder-
 land.

with the *South-Sea* Company : For if the Stocks were kept up to the advanced Price, to which they had been rais'd by the oblique Arts of Stock-jobbing, either that Company, or its principal Members, would gain above thirty Millions Sterling, of which they gave but one fourth Part towards the Discharge of the national Debts : That tho' this Scheme carried the Face of Public Good, yet nothing could be so, that was founded on Injustice, as his Lordship took this Bill to be : That he apprehended, in particular, That the main publick Intention of it, *viz.* the Re-Purchase of Annuities would meet with insuperable Difficulties, and that, in such a Case, none but a few Persons who were in the Secret, and had early bought Stocks at a low Rate, and afterwards sold them at a high Price, would, in the End, be Gainers by this Project. The Duke of *Buckingham* spoke on the same Side ; but the Earl of *Sunderland* said, ' That they who encouraged and countenanced the Scheme of the *South-Sea* Company had nothing in their View, but the easing the Nation of Part of that heavy Load of Debt it labours under : That on the other hand the Managers for that Company had, undoubtedly, a Prospect of private Gain, either to themselves or to their Corporation, but that, when that Scheme was accepted, neither the one nor the other could foresee, that the Stocks would have risen to the Price they were now advanced to : That if they had continued as they were at that Time, the Publick would have had the far greater Share of the Advantage accruing from that Scheme ; and if the Stocks were kept up to that Price, they had been rais'd to, which was not unlikely, it was but reasonable that the *South-Sea* Company should enjoy the Profits procured to it by the wise Management and Industry of its Directors, which would enable it both to make larger Dividends among its Members, and thereby to compass the Ends intended by this Scheme.

The S. Sea Bill
 passes the House. Then the Question being put for committing the Bill, it was carried in the Affirmative by 83 against 17. On the 7th of *April** it was read a third Time, pass'd ; and receiv'd the Royal Assent.

June

* On the 20th of May following, *South-Sea* Stock rose to 550 per Cent. on the 2d of June to 890. On the 15th of that Month the King embark'd for Holland : Upon his Majesty's going Abroad, many of those that went with him, withdrew their Money out of the *South-Sea*, which sunk the Stocks considerably ; but the Directors, by promising prodigious Dividends, and other indirect Arts, afterwards rais'd it again, and even advanced it to 1000, and held it up almost all the Month of July to between 900 and 1000. At this Time, the whole Nation, Clergy and Laity, Whigs and Tories, Churchmen and Dissenters, Statesmen, and even Ladies, who had or could procure Money for the Purpose,

June 11. The Parliament was prorogued to the 28th of Anno 7. Geo. I.
July, and afterwards to the 8th of *December*.

1720.

turned Stock-Jobbers, and entirely neglected their several Professions and The Parliament
 Employments to attend some Bubble or other. There were a Multitude prorogued,
 of other Bubbles on Foot at this Time, the Sums proposed to be raised
 by which did not amount to less than Three Hundred Millions Sterling.

On the 8th of September, South-Sea Stock fell to 640, and the
 next Day to 550; by the 19th it came to 400; and on the 29th,
 fell to 150. The latter End of that Month several of the most eminent
 Goldsmiths and Bankers in London, having lent great Sums on South-
 Sea Stock, &c. were forced to shut up their Shops and abscond.



The SIXTH SESSION of the FIRST PARLIAMENT of King GEORGE I.

ON the 8th of *December* the King open'd the Session
 with a Speech from the Throne; in Answer where-
 to the following Address was presented the next Day.

Most Gracious Sovereign,

WE your Majesty's most dutiful and loyal Subjects, Address to the
 the Lords Spiritual and Temporal in Parliament King for his
 assembled, beg Leave to return your Majesty the Thanks Speech at open-
 of this House, for your most Gracious Speech from the ing the Sixth
 Throne; and to congratulate your Majesty upon the near Session.
 Prospect of a general Peace being established throughout
Europe: And we do acknowledge, with the greatest Gra-
 titude, your Majesty's Care and Endeavours for the Se-
 curity and Support of the Protestant Religion; towards
 the attaining which great Ends, your Majesty may depend
 upon our utmost Support and Assistance.

'We cannot sufficiently express to your Majesty, how
 much we are concerned at the present unhappy State of
 Publick Credit: And we do upon this Occasion assure
 your Majesty, of our zealous and ready Concurrence, in
 all such Measures as shall be most effectual and speedy to
 restore it, and fix it upon a lasting Foundation; and also
 in all other Measures that may tend to the Security and
 enlarging the Commerce of these Kingdoms.'

To this the King gave the following Answer.

My Lords,

I Thank you for this dutiful and loyal Address; And The King's An-
 I persuade my self that your Zeal for the Good of swer.
 your Country, your Temper, Wisdom, and Unanimity,
 will greatly contribute towards extricating us out of our
 present Difficulties."

December

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Anno 7. Geo. I.
1720.

A Day appointed
to consider the
calamitous State
of the Nation,
occasion'd by the
S. Sea Scheme.

Debate thereon.
Lord North and
Grey.

E. of Aylesford.
D. of Wharton.

Accounts, &c.
relating to the
S. Sea Scheme
presented.

December 12. The Duke of *Wharton* took Notice of the present calamitous State of the Nation, occasion'd by the *South-Sea* Project, and gave several Instances of the unfair Management of the Directors; and moved that a Day might be appointed to consider of the present State of the Nation, particularly with Relation to publick Credit. The 20th of this Month was accordingly appointed.

That Day the Lord *North* and *Grey* stood up, and animadverted on some licentious and prophane Writings, that struck at the very Foundation of the Christian Religion. His Lordship then took Notice of the *South-Sea* Project, which, as he had foretold eight Months before, [p. 125] had been attended with such dismal Consequences. He was seconded by the Earl of *Aylesford*, and then the Duke of *Wharton* spoke on the same Subject, and, among other fraudulent Practices of the *South-Sea* Managers, instanced in some collusory Bargains about Stock, between the *Sword-Blade* Company and Mr *Knight*, Treasurer of the *South-Sea* Company, concluding, 'He hoped that noble Assembly would exert their Power in punishing the villainous Projectors and Executors of the *South-Sea* Scheme. Then the Consideration of the State of the Publick Credit, was referr'd to a Committee of the whole House.

On the 21st of *December* the House ordered, 'That an Account of the Authorities the Directors had from the General Court of the said Company; to lend out any Money upon the said Stock and Subscriptions; also a List of the Names of the Subscribers to the several Money-Subscriptions, the several Sums subscribed, what Money has been paid thereupon, and what remains unpaid, and by whom; also an Account of what Quantities of Stock have been bought for the Account of the said Company, at what Times, or what Price, and what Brokers bought or sold the same; and also an Account of what Stock has been bought, pursuant to the Agreement of the said Company with any of the Subscribers, and at what Time, should be laid before them.

The next Day their Lordships ordered,

I. That the Managers and Directors appointed by the Commissioners of the Treasury, do forthwith lay before the House, a true Copy of the Writing or Writings, by which they were appointed Managers and Directors.

II. That the Directors of the *South-Sea* Company do lay before the House, a true Copy of the Writing or Writings by which they were appointed Managers and Directors; likewise a true List of the Names of the Directors of that Company; that they do also lay before the House, the original Lists, or true Copies of all Lists, of Subscriptions delivered;

or sent down to the said Company, their Directors, or any Anno 7. Geo. 1.
of their Officers, when, and by whom.

1720-21.

III. That an humble Address be presented to his Majesty, that he would order the proper Officers to lay before the House, Copies of the several Commissions for the establishing or encreasing the capital Stock of the *South-Sea* Company, so far as the same relates to the taking of any Subscriptions, or ordering any other Matters or Things for ascertaining the said Stock.

January 9. The Lords being met, pursuant to their last Debate on the Adjournment, the Sub-Governor and Deputy-Governor of State of the publick Credit. the *South-Sea* Company laid before them several of the Papers called for; and the next Day their Lordships went into a grand Committee to consider of the State of the Nation, with Relation to publick Credit.

The Lord *Stanhope* said, 'That the Estates of the Criminals, whether Directors or not Directors, ought to be confiscated to make good the publick Losses.' Lord *Carteret* spoke to the same Effect. The Earl of *Sunderland* own'd, That he had been for the *South Sea* Scheme, because he thought it calculated for the Advantage of the Nation, in order to lessen the publick Debts, and in particular to take off the heavy Incumbrance of long Annuities; That no Man could imagine that so good a Design could have been so perverted in the Execution, as to produce quite contrary Effects; but that, in his Opinion, no Act of Parliament had ever been so much abused as the *South-Sea* Act, and therefore he would go as far as any Body to punish the Offenders.

The Duke of *Wharton* said, with becoming Vehemence, 'That they ought to have no Respect of Persons; that for his Part he would give up the best Friend he had; that the Nation had been plunder'd in a most flagrant and notorious Manner, and therefore they ought to find out the Offenders, and then punish them with the utmost Severity.' The Lord *North* and *Grey* and the Earl of *Abingdon* urged also the ill Effects of the *South-Sea* Project, which the Bishop of *Rochester* justly compared to a Pestilence. The Earl *Cowper* spoke likewise on the same Side, and blamed those who, by the Act of Parliament, were appointed to overlook and check the *South-Sea* Directors; and who, in Discharge of that Trust, ought to have prevented their jumping from a Subscription at 400 to 1000, which was the main Cause of the Misfortunes that ensued.' The Earl of *Sunderland* finding himself, and the other Lords of the Treasury thus attack'd, spoke in his own and their Vindication; and said, 'That by the *South-Sea* Act they were directed to appoint such Persons, as they should think fit, to be Managers on the Part of the Treasury for the due Execution of the said

1720-21.

R

Act;

Anno 7. Geo. I.
1720-21.

The House resolve, That the Commissioners of the Treasury's appointing the Directors of the South-Sea Company to be Managers for executing the S. Sea Act was legal.

A&t ; That as they had Reason to look upon those Persons, who had the principal Share in framing this Scheme, as the most able and proper to execute it, they had accordingly appointed some of the *South-Sea* Directors to be Managers and Directors for the Treasury : Concluding, that in this they had followed former Precedents.* Hereupon the Question was propos'd, That the Constitution from the Commissioners of the Treasury, dated the 6th of May, 1720, appointing the Directors of the *South-Sea* Company to be Managers and Directors for performing such Matters and Things as, by the A&t for enabling the said Company to increase their present capital Stock, are directed, has been conformable to Precedents, and legal. This occasioned a great Debate, but the Lord *Harcourt* * having declared his Opinion for the Affirmative, the Question was carry'd by 63 Voices against 28.

January 10. The Report from the above Committee being read, it was resolved, that the House do agree with the Committee in the above Resolution.

Dissentient

Protest against the said Resolution.

I. Because the A&t of the last Session of Parliament for enabling the *South-Sea* Company to increase their Capital Stock (upon which A&t the Legality of the Constitution in Question must wholly depend) hath vested the Directors and Managers, to be appointed by the Commissioners of the Treasury, with such Trusts and Powers, and required such Things to be done by them, as, we conceive, could not be intrusted to the Directors of the *South-Sea* Company to execute, according to the true Intent and Meaning of the said A&t.

II. Because we conceive it to be inconsistent with the said A&t, that the Directors and Managers appointed by the Commissioners of the Treasury (who by the A&t are intrusted to ascertain what Annuities shall be taken in, and what Debts paid off by the said Company ; what Additions, in respect thereof, shall be made to the Capital Stock of the said Company ; how much is to be paid by the said Company into the *Exchequer* for the Use of the Publick ; what new Allowance is to be made to the same Corporation for Charges of Management ; to enter into Books the Prices to be agreed on between the Company on the one Part, and the Proprietors of the Publick Debts on the other Part ; to adjust the Accounts of the Debts and Annuities taken in by the Company ; and to certify and transmit Duplicates of the Accounts so adjusted, among others, to the Directors of the *South-Sea* Company) should be the Directors of the *South-Sea* Company, and they only.

III Because

* Created a Viscount, August 24, 1721, and a Pension of 4000*l* per Annum granted to him for Life.

III. Because the said Directors of the Company appear to us plainly to be concerned in Interest, so as to incline them to execute the said Powers or Trusts partially for the Company, unless restrained by a great Degree of Honesty ; and if there should be any Mistake by them committed, wilfully or otherwise, to the Advantage of the Company and Disadvantage of the said Proprietors, in any Matters intrusted to the said Directors and Managers, we do not find any Provision in the said Act to rectify the same, nor conceive how it can be done, unless by Application to, and by Consent of the said Directors and Managers, who are the Directors of the *South-Sea* Company, and no other ; which, we think, could never be the Meaning of the Act, but that the Intent thereof must be, that the said Trusts of Directors and Managers should have been executed by impartial and indifferent Persons.

Anno 7. Geo. I.
1720-21.

IV. We conceive, that the said Act expressly requires the Commissioners of the Treasury, to appoint fit Persons to be Directors and Managers for executing the Powers and Trusts above specified ; and therefore, if the abovementioned Reasons did not sufficiently prove the Constitution in Question not to be agreeable to the said Act, yet it seems very clear to us, that the Directors of the *South-Sea* Company were, of all others, the most unfit for such a Trust, and consequently not such Persons as are expressly required by the said Act.

And we cannot agree, that the said Constitution is precluded.

1. Because the Precedents produced are all in Time before the passing the Act of Parliament, on which the present Question did arise ; and therefore, in our Opinion, can be of no Weight in determining any Question that dependeth on the Construction of the said Act, unless such Precedents had been founded on some former Act or Acts of Parliament, the same, in all material Points, with the Act abovemention'd ; which, it appears to us, neither the said Charter, nor Commissions or Appointments produced as Precedents were.

2. All the Cases relied on as Precedents (except the last) are, as we conceive, widely differing from the Case in Question ; that marked No. 1. is dated before the Erection of the *South-Sea* Company, and therefore did not, nor could confer any Powers on the Directors of the Company, which was not then in Being, but is directed to the Members of other Corporations, divers great Officers, and very many other Persons, in order to the erecting the *South-Sea* Company ; the five following, from No. 2 to No. 6. included, are indeed to empower the Directors of the *South-Sea* Company, but 'tis only to take Subscriptions of Tallies,

1720-21.

R 2

Orders,

Anno 7. Geo. I. Orders, Debentures. and the like Government-Securities,
17:0-21.

and to compute the Interest due thereon, in order to the admitting the Proprietors into the Company, at the Rates stated in the Acts of Parliament, to which the Charter and Commissions relate; but none of them empower the Directors of the *South-Sea* Company to enter, adjust, or certify, or to do any Matter relating to Contracts to be made, whereto the Company was to be made a Party, as in the present Case.

3. And as to the said last Case, cited as a Precedent, marked No. 7. which comes the nearest to the present, the Directors of the *South-Sea* Company being thereby appointed Directors and Managers (which they are not by any of the former) to execute all the Powers given to Directors and Managers by the Act of the fifth of his present Majesty, for redeeming the Fund appropriated for the Payment of the Lottery Tickets, yet neither by that Appointment, or the Act referred to, had the Directors of the *South-Sea* Company any Authority to do any Thing in relation to Contracts or Bargains to be made, wherein the Company was to be made a Party; and therefore not to be compared in the present Case.

4. But if the said last and only Precedent, not before taken Notice of, had been a Precedent in Point, yet it bearing Date no longer ago than the 4th of May 1719, and being signed by four of the five Commissioners of the Treasury, who have signed the Appointment which it is brought to justify, and having pass'd under Silence, no Occasion having happened to draw the Validity thereof into Question, it could be, as we conceive, of no Authority to support the said last Appointment when it was drawn in Question, and order'd to be consider'd by the Committee of the whole House appointed to inquire into the Causes of the late unhappy Turn of Affairs, which has so much affected the publick Credit at Home.

For the aforesaid Reasons, and lest it might be deemed to be a prejudging of a Matter that may possibly be brought judicially before us.

Wharton, Compton, Litchfield, Abingdon, Bingley, North and Grey, Weston, Cowper, Gower, Bathurst, Guildford, Scarfsdale, Aylesford, Strafford, St John de Blatbo.

The Directors,
&c. of the S. Sea
Company voted
guilty of a Breach
of Trust.

On the 12th of January the Lords went into a Committee of the whole House, to take into Consideration the unhappy Turn of Affairs, that has so much affected the publick Credit; and the Sub-Governor, Deputy-Governor, and the several Directors of the *South-Sea* Company, not being Members of the House of Commons, as also their Secretary, Treasurer, and Under-Treasurer being call'd in and examined, it was resolved, That the Directors of the

South-Sea Company, in the Loans made by them upon the Stock and Subscriptions, have been guilty of a Breach of Trust, and ought, out of their own private Estates, to make good whatever Loss the Company may sustain. Some Lords were unwilling to involve all the Directors in this Censure ; but it being alledged, That they were all guilty, either by acting or assenting, they acquiesced in the Resolution.

Anno 7. Geo. I.
1720-21.

January 16. The Lords ordered a Bill to be brought in, *to disable the present Sub-Governor, Deputy-Governor, and Directors of the South-Sea Company, at, and from, and after the respective Times for electing a Sub-Governor, Deputy-Governor, and new Directors of the said Company, to take, hold, or enjoy any Office, Place, or Employment in the said Company, or in the East-India Company, or Bank of England, and from voting upon Elections in the said Company :* Which Bill was read twice on the 19th.

A Bill to disable them from holding any Place in the Bank, S. Sea, or East-India, Companies.

The same Day the Sub and Deputy-Governor of the *South-Sea Company* were called in, and deliver'd an Account of all Quantities of Stock bought for the Use of the Company, and Prices and Times of buying ; a Supplement to the Account of what Money has been lent on the Stock of the Company, and what repaid ; Copies of Minutes of the Court of Directors, from the 25th of *December 1719*, to the 21st of *December 1720* ; Copies of Minutes of the Managers and Directors for taking Subscriptions, from theirs of *August 1720*, to the 9th Instant.

More Accounts relating to the S. Sea Company.

Mr *Knight* * was examin'd, what he knew of any Stock taken in by the Company for any particular Persons, except what is in the Book of Loans.

Examination of Mr Knight, Mr Surman, and others.

Mr *Surman* was also examin'd touching the Matter ; after which it was order'd, that the Directors do forthwith lay before the House, an Account of what Stock has been taken for private Persons, and for whom, and at what Time ; and at what Times sold out, and at what Price ; and at what Time the Price of the Stock so taken in was repaid ; and also an Account of what Stock has been sold by the Company, to, and by whom, and at what Price, and at what Time : Then the Brokers were call'd in ; also Mr *Powell* and Mr *Webster* were sworn and examin'd before the Committee, and being withdrawn, the House was put into a Committee, and *La Cour*, (the *Jews*) Father and Son, were first examin'd, and directed to make Extracts out of their Books, in relation to what was transacted in Stock or Stocks,

or

* On the 22d of January, 1720-21, he absconded, and the next Day embarked on Board a Vessel in the River that carried him to Calais. On the 23d, a Proclamation issued, offering a Reward of 2000*l.* for securing and apprehending him.

Anno 7. Geo. I.
1720-21.

Petition of the
Sub-Governor,
&c. against the
Bill for restrain-
ing them from
going out of the
Kingdom.

or Subscriptions for the Directors, or any Officers, their Servants, or any Persons in Trust for them, or for Account of the Company, and then withdrew; afterwards the rest of the Brokers were call'd in, and directed to make the like Extracts as *La Cour* was, and withdrew.

On the 21st of *January* a Petition of the Sub-Governor, Deputy-Governor, and the Directors of the *South-Sea* Company, being read, praying to be heard by their Counsel, as to the Bill brought up from the Commons, for restraining the Petitioners from going out of the Kingdom, &c. the said Bill was read a second Time, and committed to a Committee of the whole House for *Monday*; then it being propos'd, that the Intent of the Bill being to prevent the Petitioners from withdrawing their Persons and Effects, for making Satisfaction, and for punishing them for the notorious Breach of Trust which they have already appear'd guilty of, or which they do not deny or excuse in their Petition, that therefore the Petition be rejected; and the Question being put upon the said Proposition, it was resolv'd in the Affirmative. After this it was order'd, That the Brokers do lay before the House, an Account of all the Stock and Subscriptions bought or sold by them, for any of the Officers of the Treasury or Exchequer, or any in Trust for them, or any of them, to the best of their Knowledge and Belief, since *Michaelmas* 1719. By this Account it appearing that large Quantities of *South-Sea* Stock had been transferr'd to the Use of Mr *Aislaby*, one of the Lords of the Treasury, the Duke of *Wharton* said, 'He hoped some great Men would produce some good Fruit, else they would break out into Blotches, that would stick upon them, like the Leprosie of *Naaman* the Syrian on *Gehazi*.'

D. of Wharton.

Examinations of
Mr Joye, Sir W.
Chapman, Mr
Houlditch, Mr
Hawes, Mr Gib-
bon, Mr Chester,
Mr Astell, and
Sir Harcourt
Masters.

On the 24th of *January* the Lords in a Grand Committee, examin'd Mr *Joye*, Deputy-Governor, who made a very ingenuous Confession of several important Matters.

Upon a Motion made by Lord *Stanhope*, Sir *William Chapman**, Mr *Houlditch*, Mr *Hawes*, Mr *Gibbon*, and Mr *Chester*, five of the Directors, after being examin'd, were order'd into the Custody of the Black Rod.

Jan. 26. The Lords examin'd Mr *Astell* and Sir *Harcourt Masters*, who made very ingenuous and large Discoveries, and named several Persons both in the Administration, and in the House of Commons, to whom large Sums, in *South-Sea* Stock, had been given for procuring the Passing of the *South-Sea* Act. After which upon a Motion made by the Earl *Stanhope*, and seconded by the Lord *Townshend* and Earl *Cowper*, their Lordships unanimously resolv'd,

Earl Stanhope.
Ld Townshend.
Earl Cowper,

* Created a Baronet, June 27, 1720.

resolv'd, ' That the taking in of Stock, the transferring of *Anno 7. Geo. I.*
 Stock to the *South-Sea* Company, the giving Credit for the *1720-21.*
 same without a valuable Consideration actually paid, or suf-
 ficiently secur'd ; or the purchasing Stock by any Director
 or Agent of the *South-Sea* Company, for the Use or Benefit
 of any Person in the Administration, or any Member of
 either House of Parliament, during such Time as the late
 Bill relating to the *South-Sea* Company was depending last
 Year in Parliament, was a notorious and dangerous Cor-
 ruption. *Resolutions thereupon.*

Jan. 31. The Lords in a Grand Committee, examin'd *Examination of*
 Mr *Waller*, Son-in-Law to Mr *Aislaby*, and Mr *Astel*, se- *Mr Waller, and*
 verally, in relation to a great Quantity of *South-Sea* Stock *Mr Astel.*
 which appear'd to have been transferr'd to, and negotiated
 by the said Mr *Waller*, who pretended not to have kept
 Minutes of what he had done in *Exchange-Alley*. This
 some Lords look'd upon as Prevarication, and the said Exa-
 mination being over, their Lordships resolv'd, ' That the
 Directors of the *South-Sea* Company, having order'd great
 Quantities of Stock to be bought for the Service of the
 Company, when Stock was at very high Prices, under Pre-
 tence of keeping up the Price of Stock ; and at the same
 Time several of the Directors, and other Officers belonging
 to the Company, having, in a clandestine Manner sold their
 own Stock to the Company, such Directors and Officers
 were thereby guilty of a notorious Fraud and Breach of
 Trust ; and their so doing was one great Cause of the un-
 happy Turn of Affairs that has so much affected the Pub-
 lick Credit.

On the 2d of *February* the Lords in a Committee, ex- *And of Mr*
 amin'd Mr *Hawes* one of the late Directors, and then came *Hawes.*
 to the following Resolutions, *viz.*

I. That the Practice of contracting began so early as in
January 1719, by Sir *John Blunt* * and Mr *Grigby*, for
 the Refusal of the next *Midsummer* Dividend, in Considera-
 tion of 5 s. *per Cent.* only paid, and of the farther Sum of
 3 l. to be paid if they should call for such Dividend ; and
 their procuring an Appointment of 10 l. *per Cent.* to be
 afterwards made at the *Midsummer* Dividend, which before
 that Time had never exceeded the Rate of 3 l. *per Cent.* *Resolutions thereupon.*
 for one half Year, was a gross Fraud in respect of the sever-
 al Persons so contracted with, and calculated to promote
 their farther unjust Designs, which have been since notoriously
 put in Practice, to the great Detriment of the Publick, and
 to the manifest Oppression of great Numbers of his Majesty's
 Subjects, and was one of the Causes of the unhappy Turn
 of Affairs, which has so much affected the Publick Credit.

II. That

Anno 7. Geo. I.
1720-21.

II. That the declaring the *Midsummer* Dividend by the Directors of the *South-Sea* Company upon *South-Sea* Stock, to be in Stock, notwithstanding, before that Time, they had receiv'd great Sums of Money, more than sufficient to answer a reasonable Dividend in Specie, was calculated to put an imaginary Value on the said Stock, and was one of the Causes of the unhappy Turn of Affairs, &c.

III. That the Practice of some of the Directors of the *South-Sea* Company, and their Officers, in giving out large Premiums for the Refusal of Stock at very high Prices, was a fraudulent Artifice to raise the Price of Stock far above the Value they knew it could bear, and was one other Cause, &c.

IV. That the contriving and promoting the third Subscription to encrease the Capital Stock of the *South-Sea* Company, at the extravagant Rate of 1000 *per Cent.* for so great a Sum as five Millions, in order to give an exorbitant Rise to the said Stock, was fraudulently calculated to answer the Ends of particular Persons, was a notorious Cheat on the Publick, and one other great Cause, &c.

V. That the Declaration or Appointment (whilst the Stock was declining) of 30 *per Cent.* to be paid for the half Year's Dividend on the *South-Sea* Stock at *Christmas* 1720, and of a Sum not less than 50 *per Cent. per Annum*, for not less than twelve Years, were vile Artifices used by the Directors to delude his Majesty's good Subjects, by possessing them with false Notions of the Value of the Stock, and in Consequence thereof, to encourage them to buy at excessive Rates, as well as to prevent their selling out; to the End the Directors themselves, and their Confederates, might have the better Opportunity to sell their own Stock at exorbitant Prices; by which Means many of his Majesty's faithful Subjects have been greatly impoverish'd; but the Directors, and those in Confederacy with them, have gain'd to themselves an immense Wealth, which was one other Cause of the unhappy Turn of Affairs which has so much affected the Publick Credit.

Sir J. Blunt examin'd.

February 4. Sir *John Blunt* was examin'd by the Grand Committee. The Particulars of his Examination are as follows.

Sir *John Blunt* being call'd in, and the Book of the Account of Stock sold, being shewn to him, he was ask'd if it contain'd a true Account; he said, he never saw a true Account of Stock sold, and in one Place his Name being mention'd, he says, he does not know he sold that Stock.

And being ask'd if he was of the Committee of the Treasury; he answer'd, he was not; then being ask'd if he was of the

the Committee for taking Care of the Company's Interest, in Relation to the Bill; he desir'd to refer himself to the Books of the Company: Own'd he might possibly be at the Court of Directors, when the Book of Stock sold was brought to them from the Committee of Treasury, but it was not read over there.

Anno 7. Geo. I.
1720-21.

Ask'd if he ever sold any of the Stock to any Person of the Administration, or any Member of either House of Parliament; and thereupon insisted, 'twas the Right of an *Englishman* not to accuse himself, if it was a criminal Matter, if not, he would give the best Answer he could.

He was directed to withdraw.

Propos'd he be call'd in again, and told he must answer the Question; and thereupon he was called in, and ask'd accordingly; and says, he is sensible of the Weight of falling under the Displeasure of this House; but being required either peremptorily to answer, or withdraw, he acquainted the Committee he had been under a strict Examination already before the Secret Committee of the Commons, and answer'd several Questions long and various, and would not be thought to prevaricate, having no Copy of what he had before sworn.

He then own'd he had dispos'd of two Sums, 6000 *l.* to Colonel *Monroe* at 275, and 1000 to Mr *Banks* at 310, both of the House of Commons; he took Mr *Banks*'s Note for Payment of the Money, and gave him a Note that the Stock should be deliver'd, and the Money was paid soon after it became due, and he gave it to Mr *Knight*; he (this Examinant) did not tell him whose Stock it was, wherefore Mr *Banks* thought it was his own, he believes; but has told him since the Session, 'twas the Company's Stock.

Sir *John* being asked if he offered to put another Name in his Stead, he believes he did, and that Mr *Banks* said, it might stand in his own Name; he likewise said, he believed the Colonel did not know 'twas the Company's Stock, he having never told him it was, as he remembers.

Ask'd if the Practice of taking the Stock was resolv'd on by the Directors; and answers, he can't say it, but own'd they might have consulted about it.

He was directed to call to Memory all such as he transacted for, or what any other of the Directors did of that Kind.

And says, 'tis impossible for him to recollect; repeated, that he has been under Examination before to this Matter in another Place, and therefore hopes to be excused answering, lest his Evidence should differ.

And being required to give an Account if other Directors did not consult him about Matters of this Nature; he

Anno . Geo I. made the same Excuse, as to his being examined in another Place, and declin'd to answer.

1720-21.

He is again directed to withdraw.

Propos'd to call him in again, and ask him if he did not take Stock in for any Person in the Administration, he naming before only two of the House of Commons; and being call'd in and ask'd accordingly, says, he does not remember he did sell or take in any Stock for any Person in the Administration.

The last Question but one being ask'd him, says, he would be very loth to offend this august Body, and would be glad he could get a Copy of what he had sworn in another Place; whereupon he was told, if he did not answer it would be reported so to the House; he hop'd he should have Indulgence, declaring he would do nothing to create Offence.

Ask'd if he had any other Reason for his Refusal than that he has already given; and says, no other than his being examined by the Committee of the Commons; but it being insisted on he should answer, he still hoped for Indulgence, in referring to his former Examination.

He was then asked, if any Person had advis'd or directed him, directly, or indirectly, to refuse to give an Account of what he was before ask'd, as to his taking in, or selling Stock to any in the Administration, or Members of either House, and says, No.

Ask'd whether he knows of any other Directors, or their Officers, that have sold or taken in Stock for any in the Administration, or Members of either House; and says, he has before given an Account, and again desires to refer to his Examination before the Secret Committee of the Commons.

Ask'd whether he knew or heard of any Stock taken in, or to be taken in, for any Person in the Treasury; and declining to answer, he was peremptorily ask'd, whether he would answer or no; and says, he was sensible of the Danger of falling under their Lordships Displeasure, and would gladly be excus'd.

Then it being insisted on he should withdraw, he withdrew accordingly.

Proposed this Matter be reported to the House, also propos'd Sir *John Blunt* be again call'd in, whereupon a Motion being made, and the Question being put, that the said Sir *John Blunt* be now call'd in.

It was resolv'd in the Affirmative.

Call'd in accordingly, and asked the last Question; and says, he did not sell Stock to any of them, nor knows of any sold to any Person of the Treasury, and 'twas a hard Thing to be put to speak upon Hearsay.

He

He is again directed to withdraw.

Anno 7. Geo. I.
1720-21.

Then a Debate arose how to proceed in this unprecedented Case, and severe Reflections were made against those in Power by the Duke of *Wharton*, who observed, That the Government of the best Princes was oftentimes made intolerable to their Subjects by ill Ministers, which his Grace illustrated by the Example of *Sejanus*, who made a Division in the Imperial Family, and render'd the Reign of the Emperor *Claudius* odious to the *Romans*. This Reflection was highly resented by the Earl *Stanhope* *, who took upon him to vindicate his Colleagues; and brought several Instances from the *Roman* History, particularly that of the great Patriot, *Brutus*, who, in order to assert the Liberty of *Rome*, and free it from Tyrants, sacrificed his own degenerate Son. This Skirmish being over, the Lords adjourned the farther Consideration of that Matter to the 14th, when Sir *John Blunt* was ordered to attend again, also the Directors and their Officers, as was likewise Mr *Waller*.

Sir John Blunt
voted guilty of a
Contempt of the
House.

February 7. The House proceeded to take into Consideration the Behaviour of Sir *John Blunt* at the Bar on *Saturday*, and came to the following Resolution, 'That Sir *John Blunt* having been asked several Questions, by the Committee of the whole House, upon Oath, and having not only prevaricated in such Examination, but having refused to give any Answer to several material Questions, and being thereupon required to be examined before this House at the Bar, and there, out of some evil Intention, obstinately refusing to take his Oath, in order to his Examination, is guilty of the highest Contempt of this House, manifestly tending to defeat all Parliamentary Inquiries and Examinations, and of dangerous Consequence to the Constitution.'

Then Sir *John Fellows* † was called in and ask'd, Do you know, or have you heard of any Person in the Administration or the King's Service, or that is a Member of either House of Parliament, that has had any Stock given to him, or promised him, or taken in for him? And answers, I hope to be indulged so as not to be ask'd any Questions which may subject me to any Penalties upon myself: I have been very much in Disorder in my Health, and am so still; have heard several Votes of Censure have been passed in my Absence, therefore beg to know how far I should answer: I have been much affected as to my Memory, and am in the Judgment of the Lords how far I should answer that may affect

Examination of
Sir J. Fellows.

1720-21.

S 2

* Lord Stanhope spoke with so great Vehemence, that finding himself taken suddenly with a violent Head-Ach, he went home and was cupp'd, but died the next Day.

† Created a Baronet, Jan. 20, 1718-19.

Anno 7. Geo. I. affect myself : I was in the Spring, and in the Summer very much affected in my Head, and am so still.

1720-21.

Ask'd the above-mentioned Question, as to what he had heard ; and says, I don't know of any ; I can't say I have heard of any in the Administration that have ; I do not remember to have heard of any ; I can't charge my Memory with it ; I don't know of any Person ; I have been out of Order ; I did not transact Affairs of that Nature with any Members of either House ; I hope you'll give me Time to consider, and refresh my Memory ; your Lordships were pleased to indulge me before, I desire to be indulged to consider of this.

And of Mr Joye. Mr Joye call'd in, and ask'd the same Question as Sir John Fellows ; and answers, I do not know of any ; I did hear Mr Knight say a great while ago, about Nine Months ago, my Lord Sunderland was to have some ; and asking him how that could be, who could give Order for it ? Mr Knight said it was not for himself, but in Trust for some Friends ; and since this Enquiry, asking Mr Knight if my Lord Sunderland had had any Stock, he answer'd very positively, no ; whereupon I saying, are you sure of it, he said he was sure of it, or Words to that Effect.

Ask'd if he knew what Quantity of Stock it was ; and says, I can't charge my Memory, whether Mr Knight should say 30,000 *l.* or 100,000 *l.*

Ask'd whether any Body was present at those Discourses ; and says, I apprehend there was no Body present could hear them.

Ask'd what gave Rise to their Discourse ; and says, Mr Knight spoke to me directly, without previous Conversation the first Time, the second Time without any Thing previous ; I ask'd Mr Knight if my Lord Sunderland had had any Stock, and he said positively, no.

Ask'd whether upon the first Conversation any Thing more past ; and says, to the best of my Remembrance, I had no other Conversation with Mr Knight the first Time.

Ask'd whether before the first Conversation, any Dispute had past between Mr Knight and himself, for taking in Stock for any Person whatsoever ; and says, sometime before, Mr Knight told me he thought it would be an advantageous Thing for the Company to sell some Stock ; I ask'd him if the Company had Stock, and he told me they had some, about 25,000 *l.* or 30,000 *l.* and 100,000 *l.* in his own Name ; I had a second Conversation with him to the same Purpose.

Ask'd if it was mentioned in the second Conversation that my Lord Sunderland was to have some ; and says, it was not ; I believe it was a Fortnight or three Weeks after.

Ask'd

Ask'd if he does not know my Lord *Teynham* was charged Anno 7. Geo. I. with a Sum, as a Defaulter in the third Subscription; and says, I believe my Lord *Teynham* is unjustly charged as a Defaulter by some Mistake or other, but do not know how it happens. 1720-21.

Ask'd if he had heard of any other Person for whom Stock had been taken in; and says, Mr Secretary *Craggs*, Sir *John Fellows*, and myself, waited on the Duchess of *Kendall*, acquainting her, that Mr *Knight* would provide her 8 or 10,000 *l.* Stock, and her two Nieces 5000 *l.* a Piece, as I remember; the Countess of *Platen* 8 or 10,000 *l.* at 150 *l.* per Cent. they paying the Money for it; which Mr *Knight* informed us was the Market-Price.

Ask'd if he knew when this was; and says, I cannot recollect when it was; but asking Mr *Knight* some Time since, whether these Ladies had the Stock; he assur'd me that the Duchess and her two Nieces never had the Stock; as to the other Lady he spoke more doubtful.

Ask'd whether the Ladies had the Difference of the Stock; and says, I never heard that they had.

Feb. 9. Lord *Cowper* took Notice to the House of the Debate on a Report of Mr *Knight's* being taken and in Custody, which being a Matter in which the Publick was highly concern'd, he desir'd those in the Administration to acquaint the House, whether there was any Ground for that Report? The Earl of *Sunderland* having upon this inform'd the House, in what Manner Mr *Knight* had been apprehended and secur'd; a Motion was made to address his Majesty, to order his Ministers abroad, to use the most effectual Instances to have him deliver'd up, and sent over. Hereupon the Lord *Cowper* per represented, 'That the Person, who at present took Care of his Majesty's Affairs at *Brussels*, being a Foreigner, it were therefore proper for the House, either to send a Messenger of their own, or to desire his Majesty to send a special Messenger to bring over Mr *Knight*, who was so material an Evidence in the present Inquiry into the villainous Frauds of the late *South-Sea* Directors, and their Abettors. The Lord *Townshend* * said thereupon, 'That either of these would imply a Distrust of his Majesty's Care in this Affair, which they had all the Reason in the World to be satisfy'd in: That upon the Application made to his Majesty, for using his Endeavours to get Mr *Knight* secur'd, twelve Expresses were immediately dispatched for that Purpose to his Majesty's Ministers Abroad; and that these Orders had been executed with such Diligence by the Secretary

* Appointed Principal Secretary of State, Feb. 8, 1720-21,

Anno 7. Geo. I.
1720-21.

Address to the
King thereupon.

Examination of
Mr Grigsby, Mr
Surman, Mr Bon
Ouvrier, Mr
Waller and Mr
Barber.

cretary of his Majesty's Resident at *Brussels*, that Mr *Knight* was actually apprehended, and in safe Custody : Concluding, ' That it became the Wisdom of that august Assembly, to express their grateful Acknowledgments to his Majesty for his past Care, and to rely on his future Endeavours for getting Mr *Knight* deliver'd up, and sent over. Accordingly the same Day an Address was presented, to which his Majesty return'd for Answer, That he would give the necessary Orders, and use his utmost Endeavours to have Mr *Knight* secur'd and brought over.

On the 14th of *February* the Lords examin'd Mr *Grigsby*, late Accomptant General of the *South-Sea* Company, Mr *Surman*, late Deputy Cashier, and Mr *Bon-Ouvrier* a French Broker ; and order'd Mr *Waller*, Son in-Law to Mr *Aislabie*, into the Custody of the Usher of the Black Rod.

Feb. 16. The Lords examin'd *John Barber* *, a Printer, a private Agent of some late leading Directors ; and who was shrewdly suspected of having been employ'd in dealing out *South-Sea* Stock to some Members, while the *South-Sea* Proposals, and the Bill thereupon, were depending in the House.

Feb. 18. A Motion was made in the House, ' That taking Stock of the *South-Sea* Company at 400, was injurious to the Proprietors of the *South Sea* Company ; but it was disagreed to.

Earl Coningsby
committed to the
Tower, for re-
flecting on the
Ld Chancellor
and the Sheriff
of Herefordshire.

On the 27th of *February*, the House took into Consideration some Matters relating to a Trial at the last Assizes at *Hereford*, touching the Presentation to the Vicarage of *Leominster*, which was claim'd by the Earl *Coningsby* ; and at the same Time examin'd into the Complaint of the Lord High Chancellor, who in a printed Pamphlet, intitled, *The First Part of the Earl Coningsby's Case, relating to the Vicarage of Leominster*, (which had been given out at the Door of the House) was reflected on, for putting disaffected Persons into the Commission of the Peace. In order to make good this Charge, there had been printed and dispers'd, together with the Case before mention'd, an Examination and Affidavit, highly reflecting on *Edward Witherspoon*, Esq; High Sheriff of *Herefordshire* : Thereupon three Addresses were presented to the King in that Gentlemen's Favour, one from the Clergy, another from the City, and a third from the County of *Hereford*. The Lord *Coningsby* not being able to make good his Allegations, the Lords committed him to the Tower.

March 8. The House, according to Order, resumed the
adjourned

• Afterwards Lord Mayor of London.

adjourned Debate which arose on *Saturday* last, upon the *Anno 7. Geo. I.* Report then made from the Committee of the whole House, to whom the Bill intitled, *An Act to preserve and encourage the Woollen and Silk Manufactures of this Kingdom, and for the more effectual employing the Poor, by prohibiting the Use and Wear of all printed, painted, stained or dyed Callicoos in Apparel, Household stuff, Furniture, or otherwise, after the 25th Day of December, 1722 (except as therein is excepted)* was committed, That the Committee had gone through the said Bill without any Amendment.

1720-21.

Protest relating to the Calicoc-Bill.

Then a Motion being made, That the Bill should take Place at *Christmas* 1721, (instead of *Christmas* 1722, as propos'd in the Bill) it pass'd in the Negative by 71 against 29.

Dissentient

I. Because it appears to us very extraordinary, and as we believe is unprecedented, that any Bill of this Nature should not take Effect till so long after the passing thereof, and even almost a Year after the Parliament, in which it is passed, must legally determine.

II. We think the Delay in this Case the more unreasonable, the Miseries of the People proposed to be remedied by this Bill requiring a speedy Redress; and after the Loss of the like Bill the last Session, deferring the Relief for near two Years longer may, we fear, reduce the poor Manufacturers to such Want as may endanger the Publick Peace, or make as many, as can, turn themselves to other Business, to the Ruin of the Woollen Manufactures of this Kingdom.

III. We conceive, that till the Bill shall take Place, it will rather encourage than hinder the buying of printed Callicoos, which is at present obstructed, by the Apprehension of a much nearer and stricter Prohibition; but when it shall be known not to extend to any Callicoos which shall be made in Furniture before the 25th of *December*, 1722, and that the same may be continued in Use till worn out, it cannot but be a great Inducement to the People to furnish themselves therewith.

IV. We do not think it improbable, considering the mighty Influence the great Companies may have on publick Affairs, but that Attempts may be made, even before the Provisions of the Act take place, to repeal it; and we cannot take upon us to determine, what the Sense of a new Parliament may be on this Subject.

V. And we apprehend the deferring the Remedy of the Mischiefs, set forth in the Preamble of the Bill, for so long a Time, may disappoint, in a great Measure, the Hopes which the People of this Kingdom have so justly entertained,

Anno 7. Geo. I. of having an End put to the Difficulties the Woollen Manufactures lie under, in this Session of Parliament.

1721.

St John de Bletso, Mafham, Effex, Mansell, Aylesford, Gower, North and Grey, Litchfield, Hay, Wharton, Brooke, Scarfsdale, Strafford, Guilford, Cowper, Cra-ven, Boyle, Batburft, Abingdon, Uxbridge.

Bill againft Blafphemy and Profaneneſs.

April 29. Notice being taken in the Houſe; that little or nothing had yet been done towards puniſhing the Author and Printer of an impious Libel complain'd of in the Houſe laſt Sefſions, intitl'd, *A ſober Reply to Mr Higgs's merry Argument for the Tritheiftical Doctrins of the Trinity*: The Earl of Nottingham complain'd of the Growth and Spreading of Atheiſm, Profaneneſs, and Immorality; and thereupon the Lord Willoughby de Broke* brought in a Bill† for the more effectual ſuppreſſing of Blaſphemy and Profaneneſs, which was read the firſt Time.

May

* Dean of Windſor.

† The following is an Abſtract of the ſaid Bill.

I. That the Author of any Book, wherein the Being of God, the Divinity of Jeſus Chriſt or the Holy Ghoſt, or the Doctrins of the Trinity, as ſet forth in the Thirty-nine Articles, or the Truth of the Chriſtian Religion, or the Divine Inſpiration of the Scriptures, ſhould be deny'd; and every Perſon who ſhould by adviſed Speaking, deny the ſame, ſhould, for every ſuch Offence, being thereof lawfully convicted, by the Oath of

Witnesses, over and above the Penalties inſlicted by the Statute of the 9th of King William III. ſuffer Imprifonment for

Months, unleſs he ſhould, within Months after ſuch Conviction, publickly renounce his Error, and make a Profeſſion of his Faith in the following Words; 'I A. B. do ſolemnly and ſincerely profeſs and declare, that I do believe that there is but one living and true God everlaſting, the Maker and Preſerver of all Things both viſible and inviſible; and that in the Unity of the Godhead there be three Perſons of one Subſtance, Power, and Eternity, the Father, the Son and Holy Ghoſt; and I do acknowledge the Scriptures of the Old and New Teſtament to have been written by divine Inſpiration.' And that every Printer or Publisher of ſuch Books, ſhould, for every ſuch Offence, being thereof lawfully convicted, over and above the Penalties in the ſaid Statute, ſuffer Imprifonment for Months, unleſs he make Proof who was the Author of ſuch Book.

II. That if any Preacher in any ſeperate Congregation ſhould, by writing or adviſed ſpeaking, deny any of the fundamental Articles of the Chriſtian Religion, and ſhould be thereof lawfully convicted by the Oath of credible Witnesses; he ſhould from thenceforth be depriv'd of the Benefit of the Exemption allow'd by the Act paſs'd in the firſt Year of King William, for exempting the Diſſenters from the Church of England from the Penalties of certain Laws, until he ſhould make the aforeſaid Profeſſion of his Faith.

III. That the Archbiſhops of Canterbury and York in their Provinces, and every Biſhop in his Dioceſe, upon Information upon Oath, be authorized and requir'd to ſummon any Perſon in holy Orders to appear before him, and publickly to ſubſcribe the Declaration of his Faith in the Words before mentioned: And that if any Perſon ſhould wiſfully

May 2. The said Bill was read the second Time, and the Arch-Bishop of *Canterbury* moved, that it be committed to a Committee of the whole House. Hereupon the Lord Onslow said, ' That he was as much against Blasphemy, and for promoting Religion, as it is professed in the Church of *England*, as any Body, but that he could not be for any Law that was for Persecution, of which Nature he took this Bill to be, and therefore he moved that it might be thrown out.' His Lordship was seconded by the Duke of *Wharton*, who said, ' That he was not insensible of the common Talk and Opinion of the Town concerning him : And therefore he was glad of this Opportunity to justify himself, by declaring, That he was far from being a Patron of Blasphemers, or any Enemy to Religion : But that on the other Hand, he could not be for this Bill, because he conceiv'd it to be repugnant to the Holy Scripture ; and thereupon, [pulling an old Family-Bible out of his Pocket,] his Grace quoted and read several Passages of the Epistles of *St Peter* and *St Paul* ; concluding ' That the Bill might be thrown out. His Grace was back'd by the Duke of *Argyle*, and the Earls of *Sunderland*, and *Illy*, the Lord Viscount *Townshend*, the Earl *Cowper*, and the Earl of *Peterborough*. This last Peer said, ' That tho' he was for a Parliamentary King, yet he did not desire a Parliamentary God, or a Parliamentary Religion ; and if the House were for such a one, he would go to *Rome* and endeavour to be chosen a Cardinal ; for he had rather sit in the Conclave, than with their Lordships upon those Terms.' The Bishop of *Peterborough* spoke also on the same Side, and said, ' That neither himself, nor he hoped, any of that Bench, would be Executioners of such a Law which seem'd to tend to the setting up of an Inquisition.

Anno 7. Geo. 1.

1721.

Debate thereon:
Abp of *Canter-*
bury.
Ld Onslow.

D. of *Wharton*.

D. of *Argyle*.
E. of *Sunderland*
E. of *Illy*.
Ld *Townshend*.
E. *Cowper*.
E. of *Peterbo-*
rough.

Bp of *Peterbo-*
rough.

1721.

T

The

neglect or refuse, such Archbishop or Bishop should certify such Default or Refusal unto the Courts of Chancery or King's Bench, and such Persons, upon such Certificate filed in either of the said Courts, should from thenceforth be incapable to hold or take any Ecclesiastical Benefice until he make the aforesaid Profession of his Faith.

IV. And the Justices of the Peace at the General Quarter-Sessions are authoris'd and required, upon Information upon Oath, to summon any Preacher in any seporate Congregation, or any Quaker, to appear before them, and to subscribe the Declaration of his Belief ; and such Persons who should refuse or neglect the same, should for every such Offence, being thereof lawfully convicted, be depriv'd of the Benefit of the Exemption allow'd by the said Act of the first of *K. William*, until he has made the Profession of his Belief in the Words before mention'd : But the Quakers to profess their Belief in the same Words as they are requir'd to do by the Toleration-Act.

No Person to be prosecuted for any Offence against this Act by advis'd Speaking, unless the Words be taken down in Writing within Days after the Speaking thereof, and the Prosecution commenc'd within Months.

Anno 7. Geo. I.
1721.

E. of Nottingham.
Ld Bathurst.
Bp of London.
Bp of Winchester.
Bp of Lichfield,
and Coventry.
Ld Trevor.
Ld Onslow.

The Earl of Nottingham, the Lord Bathurst, the Bishops of London, Winchester, and Lichfield and Coventry, spoke for the Bill, as did Lord Trevor. One of these Peers having said, 'He verily believed, that the present Calamity occasioned by the South-Sea Project, was a Judgment of God on the Blasphemy and Profaneness the Nation was guilty of.' The Lord Onslow very smartly reply'd, 'That noble Peer must then have been a great Sinner, for he heard he had lost considerably by the South-Sea.' Then the Question being put that the farther Consideration of the said Bill be put off to that Day three Weeks, it was carried in the Affirmative by 60 Voices against 31.

Debate on a Petition of Mr Aislaby, Sir John Fellows, Mr Joye, and Mr Craggs's Daughters, against the Bill for raising Money on their Estates.

July 10. A Bill from the Commons, *For raising Money upon the Estates of the late Sub-Governor, Deputy-Governor, and Directors of the South-Sea Company*, was read a first Time, and order'd a second Reading; after which a Petition of *John Aislaby*, Esq; was presented to the House, praying to be heard by his Council: But the receiving of it was vehemently opposed by the Lord Townshend, who said, 'He had done more Mischief than any Man in the Nation. Some other Lords spoke more favourably of Mr Aislaby, particularly the Earl of Sunderland, tho' not directly, and so the Petition was receiv'd, and ordered to lie on the Table. Then the Earl of Clarendon presented two Petitions of Sir John Fellows and Mr Joye, upon which arose a Debate on the Question, whether any Petitions from the Directors should be received? The Earl of Sunderland suggested, that if they were all to be heard to every Particular, they should sit 'till next Year: But tho' the Lords Trevor, North and Grey, and Bathurst, urged; That there was as much Reason for receiving these Petitions as Mr Aislaby's, yet upon the Question, they were both rejected without dividing. Then there was another Petition presented in Behalf of the late Mr Craggs's Daughters, which after a short Debate was receiv'd, and order'd to lie on the Table.

A Conference between both Houses, relating to Mr Aislaby and the late Mr Craggs, sen.

On the 12th of July the Lords sent a Message to the Commons, to desire a present Conference in the Painted Chamber, upon the Subject Matter of the Bill, to raise Money upon the Estates of the late Directors, &c. which being readily agreed to, and the Managers on both Sides met, the Lord Carleton, from those of the Lords; signified to those of the Commons, 'That their Lordships had commanded them to acquaint the House of Commons, that they had receiv'd the Bill before-mentioned from them, and found in it a Charge against *John Aislaby*, Esq; and the late *James Craggs, senior*, Esq; and tho' they had read the Bill twice, yet their Lordships could not find in it the Reasons that

that induced the Commons to insert their Names in the said Bill, and therefore desired this Conference, to know the Matters of Fact upon which the said Bill was grounded, so far as the same related to Mr *Aislaby* and Mr *Craggs*. Anne 7. Geo. I.
1721.

Mr *Sloper* having reported to the House of Commons the said Conference, they resolved, that such Members as were of the Committee of Secrecy, be appointed a Committee to state the Matters of Fact, on which those Parts of the Bill for Relief of the *South-Sea* Company were grounded, relating to Mr *Aislaby* and the late Mr *Craggs*.

July 14. Mr *Clayton*, from the said Committee, deliver'd to the Lords at a Conference, the Commons Reasons for inserting the Name of Mr *Aislaby* in the said Bill, as follows.

Your Lordships having desired at a Conference, that the Commons would acquaint your Lordships with the Matters of Fact, upon which the Bill, intituled, *An Act for raising Money upon the Estates of the late Sub-Governor, Deputy-Governor, Directors, Cashier, Deputy-Cashier, and Accountant of the South-Sea Company, and of John Aislaby, Esq; and likewise of James Craggs, sen. Esq; deceas'd, towards making good the great Loss and Damage sustain'd by the said Company, and for disabling such of the said Persons as are living to hold any Office or Place of Trust under the Crown, or to sit or vote in Parliament for the future; and for other Purposes in the said Act express'd, so far as the same relates to the said John Aislaby, and to the said James Craggs, was grounded.* The Commons
Reasons deli-
ver'd at the said
Conference.

The Commons have commanded us to acquaint your Lordships, that the said Matter of Fact, so suggested in the said Bill, are relative to the Matter of Fact suggested in the former Part of the Preamble of the said Bill, and will be explain'd thereby; and for your Lordships farther Satisfaction, we are commanded by the Commons, to acquaint your Lordships, that the Bill, so far as it relates to the said *John Aislaby*, besides the Notoriety of Facts, was grounded, as well upon Proof, as the Confession of Mr *Aislaby*.

As to the Confession of Mr *Aislaby*, we are commanded by the Commons, to affirm in their Names to your Lordships, that Mr *Aislaby* did in his Place confess, that upon the 3d and 19th Days of *December*, 1719, 22,000 *L.* *South-Sea* Stock was bought by Mr *Robert Knight*, late Cashier of the *South Sea* Company, for him the said Mr *Aislaby*; and Mr *Aislaby* deliver'd in to the Commons a Paper of the Hand-Writing of Mr *Knight*, containing Part of an Account in the Words following.

Anno 7. Geo. I.
1721.

	<i>l.</i>	<i>l.</i>	<i>s.</i>
Dec. 3, 1719. To <i>South-Sea</i> Stock bought,	10,000 at 123 —	12,300	: 00
19, ditto Bought more, 12,000 at 126½,			
To ¼ per C. pd S. <i>Strode</i> 22,000,		27	: 10
To ¼ Part 217 <i>l.</i> 10 <i>s.</i> lost as	above, — — —	108	: 15
24 To Cash paid back, —			
		27,810	: 00
Dec. 10. Received in <i>Bank Notes</i> , 12,300.			
19. Received more in full, 15,510.			

27,810 *l.*

‘ We are also commanded to acquaint your Lordships, that the Commons having receiv’d Information, that Mr *Francis Hawes*, one of the late Directors of the *South-Sea* Company, had negotiated very large Sums for Mr *Aislaby*, and had had Dealings for a considerable Time past in *South-Sea* Stock with the said Mr *Aislaby*, and that an Account thereof was kept in a Book, of which Mr *Aislaby* had a Duplicate; which Accounts were continu’d in that Book ‘till some Time in *November* last: The Commons did, on the 7th Day of *March* last, order that the said Book should be laid before them the next Morning; at the making of which Order Mr *Aislaby* was present in his Place, and did not object or offer any Thing to the House that the same could not be comply’d with. But the next Day Mr *Aislaby* attending in his Place to make his Defence to the several Matters objected to him, an Obedience to that Order being required, Mr *Aislaby* declar’d, that Mr *Hawes*, if call’d in, would tell the House, that Mr *Hawes*, with his own Hand, committed the said Book to the Fire; upon which Mr *Hawes* being call’d in and examin’d, said, That the said Book was, in the Beginning of *November* last, upon Mr *Aislaby*’s pressing Instances, deliver’d up by him to Mr *Aislaby*; and that the same Book, and also the said Duplicate thereof, kept by Mr *Aislaby*, were both then burnt together, Part by Mr *Aislaby*, and Part by himself, at Mr *Aislaby*’s Instance, and that the Proposal for burning them came from Mr *Aislaby*; and Mr *Hawes* farther said, that he had not any Duplicate or Entry of what was contain’d in the said Book.

‘ We are farther commanded to acquaint your Lordships, that upon the 20th of *January* 1719-20, the Commons* resolv’d that their House would, upon the 22d of that Month,

' Month, resolve it self into a Committee of the whole
 ' House, to consider of that Part of his Majesty's Speech
 ' which related to the publick Debts, which the House did
 ' accordingly; and that afterwards, on the 27th of Ja-
 ' nuary, the House again resolved itself into the said Com-
 ' mittee, and the Committee did then receive Proposals from
 ' the *South-Sea* Company for paying the publick Debts.

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' As for Proof, the several Persons following, *viz.* Mr
 ' Robert Surman, Mr Francis Hawes, Mr Matthew Wey-
 ' mondfield, Thomas Weddall, Esq; Sir Theodore Janssen, Sir
 ' Lambert Blackwell, Mr Webster, Mr Robert Knight, Sir
 ' John Fellows, Sir John Blunt, Mr John Faulconbridge,
 ' Edmund Waller, Esq; Mr Edward Gibbon, and Mr Charles
 ' Joye were examin'd, and did, in the Opinion of the Com-
 ' mons, make out the Allegations in the said Bill relating
 ' to Mr *Aislaby*.

As to the late Mr *Craggs*, the Managers of the Commons
 acquainted those of the Lords, ' That the Commons had po-
 ' sitive Evidence, that great Quantities of *South-Sea* Stock
 ' were taken in for him, without his paying for it, or giving
 ' sufficient Security.'

Lord *Carleton* having reported this Conference to the
 House, the Lords order'd it to be taken into Consideration
 the next Day, which being done accordingly, their Lord-
 ships, after some Debate, made the following Orders, *viz.* Orders there-
 upon.

Order'd, I. That *John Aislaby*, Esq; be heard at the
 Bar of the House on *Tuesday* next, if he thinks fit. II. That
 the Lieutenant of the *Tower* do bring Mr *Aislaby* to the
 Bar of the House on *Tuesday*. III. That the Serjeant at
 Arms attending the House of Commons, do bring up Sir
John Blunt at the same Time to be examin'd as a Witness.
 IV. That a Message be sent to the House of Commons, to
 desire they would give Leave that any of the Witnesses,
 that are Members of that House, may be examin'd in Be-
 half of Mr *Aislaby*. V. That the other Witnesses that are
 not Members of the House of Commons, as also, VI. That
Edmond Waller, Esq; do then attend to be examin'd.

Then the Petitions of the Executors of the late Mr *Craggs*
 being read, it was order'd, That the said Petitions be re-
 ferr'd to the Committee upon that Bill, and that they be
 then severally heard by their Counsel.

Then a Petition of Mr *Robert Surman*, late Deputy-Ca-
 shier of the *South-Sea* Company, was read, and rejected: Mr Surman's
 After which it was order'd, that an Address be presented to
 his Majesty, praying, That the several Papers relating to the
 Affair of Mr *Aislaby*, may be laid before the House.

On the 17th of *July* the Lords sent a Message to the
 Commons, desiring that the Commons would give Leave to

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George Bailie, Esq; Richard Edgewcombe, Esq; William Lowndes, Esq; Charles Stanhope, Esq; Henry Kelsall, Esq; William Clayton, Esq; Richard Hampden, Esq; George Delavall, Esq; Sir Robert Furnese, Bart. and Edward Wortley, Esq; Members of their House, to be examined as Witnesses on Behalf of John Aislaby, Esq; before the Committee of the whole House, to whom the Bill, intituled, An Act for raising Money upon the Estates of the late Sub-Governor, Deputy-Governor, Directors, Cashier, Deputy-Cashier, and Accountant of the South-Sea Company, and of John Aislaby, Esq; &c. stands committed: And Leave was given accordingly.

Farther Proceedings on Mr Aislaby's Petition.

July 18. The Lords sent another Message to the Commons, desiring, That a Letter from John Aislaby, Esq; to Mr Weymondfold, dated the 1st of March, 1719-20, brought before that House, and order'd to lie upon the Table, might be laid before their Lordships; and also, That the Lords had agreed to the Bill, intituled, An Act for appointing Commissioners to examine, state, and determine, the Debts due to the Army, without any Amendment. Hereupon the Commons proceeded to take the first Part of the said Message into Consideration; and the House taking Notice, that there was no such Letter before the House, as was mention'd in the said Message; but the House being acquainted, that such a Letter was deliver'd in to the late Committee of Secrecy, and was in the Hands of the Chairman of the said Committee, it was order'd, That the Clerk who attended the said Committee, do attend the Lords with the said Letter.

The Orders of the House of Lords thereupon.

July 18. The Lords went into a Committee upon the Directors Bill, and great Debates arose in relation to Mr Aislaby, how, and in what Manner he and his Witnesses should be examin'd? The Lord Harcourt mov'd, That according to the establish'd Rules of Justice and Equity, every one of them might be examin'd distinctly to every Article: But this was warmly opposed by the Lord Townshend, who alledg'd, 'That such a Method would take up so much Time, that it might endanger the Loss of the Bill, which was of the greatest Importance, not only to the Kingdom, but to the King himself; for if the Bill should miscarry, no Man could tell what might be the Consequence.' This was supported by the Earl of Sunderland, who likewise urg'd the Necessity of passing this Bill, to quiet the Minds of the People. Then Mr Aislaby was call'd in, and, at his Desire, Mr Weddall, Mr Surman, Sir Lambert Blackwell, Sir John Blunt, Sir Theodore Janssen, Mr Faulconbridge, Mr Joye, and Mr Hawes, were severally call'd in, examined, and confronted with him. Sir John Fellows declared he knew nothing of the Questions that were put to him by Mr Aislaby; and Sir John Blunt, being

Debate thereon.

Ld Harcourt

Ld Townshend.

E. of Sunder-
land.

The S. S. Di-
rectors, &c. ex-
amin'd.

being asked who was the Contriver of the *South-Sea* Scheme? Anno 7. Geo. 1.

Answer'd, it was none of his contriving, but the House of Commons: But Sir *Theodore Janssen* being examined about the same Matter, said, 'That he always took Sir *John Blunt* to be the Contriver, as certainly he was the chief Manager of the *South-Sea* Scheme; and that, for his own Part, he never was let into the Secret of that Affair.' Mr *Harwes* being examined as to the burning of the Books of Accounts, ingenuously own'd the Fact; but said they were only Books of private Accounts between Mr *Aislaby* and himself; and which nowise concern'd the Publick, or any other private Person, besides them two: Upon which Mr *Aislaby* said, 'He thought there was no Hurt in burning Accounts that were made up and cancell'd, and in which no Body had any Concern, but Mr *Harwes* and himself.' These Examinations being over, Lord *Onslow* stood up and ask'd, Whether, in the Opinion of their Lordships, any Mischief had happened to the Publick? And being answered by another Lord, Yes, without Doubt, a great deal: But, added Lord *Onslow*, it seems no Body has done it; Sir *John Blunt* is innocent, Sir *John Felloes* knows nothing of the Matter, none of the Directors were let into the Secret, Mr *Aislaby* has done no Hurt: Therefore, my Lords, I move to adjourn; which was done accordingly. 1721. Debate thereon.

The next Day the Lords went again into a Committee upon that Part of the Directors Bill relating to Mr *Aislaby*; and the Lord *Trevor* said, 'That from any Evidence that had yet appear'd before them, he could not see that there was sufficient Ground to insert Mr *Aislaby*'s Name in the Bill, and to involve him in the same Punishment with the Directors; and therefore, before they proceeded farther, he thought it necessary to send to the Secret Committee, to lay before them their whole Evidence.' This Motion was seconded by Lord *Harcourt*; but the same, if carry'd, being like to embroil both Houses in dangerous Disputes, the Lord *Falmouth* mov'd for adjourning during Pleasure, which was agreed to. After a short Adjournment, their Lordships agreed to call in and examine Mr *Surman* and Mr *Weymond*, the former of whom depos'd, and the other confirm'd, that Mr *Aislaby* had *South-Sea* Stock transferr'd to him several Times, to the Value of above 30,000 *l.* for which, they knew not that he ever paid any Thing. Then Mr *Aislaby* was call'd in, and order'd to make his Defence, which he did in the following Speech. Ld Trevor. Ld Harcourt. Ld Falmouth.

My Lords,

'I appear at your Lordships Bar, by your Permission, to Mr *Aislaby*'s be heard, in my own Person, against that Part of the Bill Defence. now depending before your Lordships, which affects myself.'

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' I have been long confin'd, by Order of the House of Commons, under whose Displeasure I am unhappily fallen, for want, perhaps, of proper Talents to explain and support my own Innocence ; for which Reason, I wish your Lordships would have indulg'd me so far, to have heard me by my Counsel in the usual Manner, in a Case where my Property, my Liberty, and, for ought I know, my Life, may be concern'd.'

' I must own, my Lords, I come very ill prepar'd to make my Defence against such Parts of this long and perplex'd Bill as seem to relate to me : It hath receiv'd so many Alterations in the tedious Passage it made through the other House, that it was impossible to learn how far I was affected by it, 'till it was past ; and it hath made so quick a Progress in this House, that I have scarce been able to get a Copy of it, before I am brought before your Lordships to make my Defence against it.'

' It was some Surprize to me, my Lords, after what had pass'd in the House of Commons, and after a Bill had been order'd, and was brought in, to make me discover my Effects, and to restrain me from going out of the Kingdom ; I say it was some Surprize to me to find myself translated all on a sudden into this Bill against the Directors, under the new-fashion'd Term of *Consolidation*, without any new Offence given, or Cause assign'd, that is fit to be mention'd in this Place. However, my Lords, I now find myself tack'd to them and their unhappy Fate.'

' My Lords, it concerns me much to know the Cause of this extraordinary Proceeding, the Reasons of these cruel and new-invented Punishments, and the Facts that are to make out the Crimes alledg'd against me in the Preamble of this Bill.'

' I have carefully perus'd and examin'd it, and enquir'd into all the Steps it has taken since I was heard in my Place in the House of Commons against a Charge contain'd in the Report of the Secret Committee, and I find nothing but what is new and extraordinary throughout the Whole. I was heard, my Lords, I say, upon the Report of the Secret Committee, containing many loose and uncertain Facts as to me, and, as it seems, innocent, or ineffectual to any one besides.'

' I thought I had given entire Satisfaction to that Assembly of my Innocence, when I found it was the Pleasure of the House that I should withdraw before any Question was mov'd, or stated upon Paper, as is usual ; it was impossible therefore to know my Crimes, or the Facts upon which they were ground'd, so as to be able to make a proper Defence there

there before I withdrew, tho' I had been very well prepar'd to do it, as I think I was. Anno 7. Geo. I.

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' But, my Lords, as this never happen'd to any Commoner before; so, my Lords, in the Warrant by which I was committed to the Tower, I find no Cause assign'd for my Commitment, as has always been practis'd in the like Cases.

' Thus far, my Lords, I was at a Loss even for my Crimes; but the next Day the Votes of the House of Commons presented me with a View of many extraordinary Crimes contain'd in several Resolutions: Crimes which my Soul abhors, and of which, my Lords, I do in this Place; and at this Bar, declare I am entirely innocent. I saw in the same Votes an order for a Bill to be brought in, to enquire into my Estate, &c. I perceiv'd that Bill to make a slow Progress for some Time, till from some fresh Displeasure conceiv'd against me, it chang'd its Shape at once, and became a Bill of Punishment, and not of Enquiry, or at least of Inquiry as in Cases of Felons Convict, tho' I had never had any Tryal.

' This Way of dealing with an *English* Subject, is unknown to the Laws of *England*; I say, my Lords, first to punish, and then inquire, the Law abhors.

' However, my Lords, I thought myself sure of the eleven Resolutions contain'd in the Votes of the House of Commons; as the Ground of the Charge against me; Resolutions that have been sent abroad, and have made me the Object of publick Odium throughout the Kingdom. I had prepar'd myself to answer to this Charge upon every Article. But here, my Lords, I found myself again disappointed; and these very Articles for which I had been branded, expell'd, and committed to the Tower for so many Months, disappear'd at once, and were (if Fame be not a Lyar) rejected by one of the very Persons that mov'd them, as so many Loopholes through which an innocent Man might escape.

' So here, my Lords, I am at a Loss again; the Punishments are enacted, the most cruel torturing Punishments, before any Charge is made, or any Facts allieg'd, and at last it is sent up to your Lordships with a Charge of Crimes, without any Facts at all to support that Charge. Give me Leave, my Lords, to say, that this, above all the other extraordinary Steps, is most new and unprecedented. An Attainder, like this, without any legal Charge in it, tack'd to another Bill that must pass, is a complicated Mischief: An Attainder of itself is uncommon, and generally abhor'd: An Attainder tack'd is entirely new and unparliamentary: An Attainder without Facts ascertain'd, is not only new and dangerous;

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dangerous;

Anno 7. Geo. I. dangerous, but against the very Principles of Justice, and the Laws of the Land in all Cases.

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‘ For this Reason, my Lords, I have humbly represented to you the Difficulties I lye under in respect to my Defence, from the Uncertainty of my Charge, for want of Facts stated to support it, and without which it is properly no Charge at all.

‘ Your Lordships have thought fit to desire, at a Conference with the Commons, to have this Defect supply’d; and they have accordingly delivered to your Lordships a Paper, a Copy whereof you have been pleas’d to give me, in order to my Defence, which I therefore take Leave to read to your Lordships.’

Here he read the Reasons deliver’d by Mr. Clayton to the Lords at the Conference. [see p. 147.]

‘ My Lords, upon Perusal of this Paper, I find only two Facts mention’d, which, if prov’d, are no Crimes, and of no Relation to the Preamble of the Bill. For as in the Preamble there were Crimes alledg’d without Facts, so in this Paper there are Facts without Crimes: Your Lordships upon this extraordinary Occasion desir’d this Conference with the Commons, in order to be inform’d of the Facts that were the Ground of their Charge. They have been pleas’d to refer your Lordships to that Part of the Preamble relating to the Directors, by which they say the Charge against me is to be explain’d. I have examin’d this Part of the Preamble, and am entirely at a Loss to find one Fact stated in it; the whole is general and most uncertain, and amounts to no Charge at all: That Part of the Preamble relating to me, is so far from being explain’d by it, that it is made more perplex’d and unintelligible.

‘ My Lords, it is a strange Circumstance that attends my Case: I stand here accus’d, and ready to make my Defence before your Lordships my Judges. Your Lordships are at a Loss to know upon what Facts to try me; you have enquir’d of the Commons my Accusers, and are no better inform’d; but on my Part, my Lords, it is yet more extraordinary; the Accus’d is put under a Necessity to find out Facts to support the Charge of his Accusers. Was any Proceeding like this ever known before? No, my Lords, the Bill of Attainder against my Lord *Strafford* was extorted from the Legislature by Force and Violence, and, in some Respect, like this, under Colour of appeasing the deluded People. Vain Imagination! This Concession of your Ancestors made Way for all the Miseries that follow’d. But cruel and unjust as it was, there were Facts stated in that Bill to charge that noble Lord, and his Accusers came like Men to this Bar to make them good; but whete are my

Accusers;

Accusers, my Lords? Where are their Facts? And where Anno 7. Geo. I.
is their Evidence? Was there ever any Accusation that pro- 1721.

ceeded from a Secret Committee before, that was not made good at this Bar by those who are suppos'd to know the Facts best, and who have oblig'd the Publick with their Discoveries? Why do they decline to give your Lordships and the Publick this Satisfaction? My Lords, I find, to save this Trouble, they refer you to the Notoriety of the Facts: Strange Notoriety of Facts, that are not yet reveal'd, and to which there is no Evidence! Was this Expression ever used before at any Conference? In any Act of Parliament? Or did it ever approach this Bar before? Pray, my Lords, what does it mean? If it means common Fame or publick Clamour, Thanks to the Arts of my Enemies, I have had my full Share, and felt the cruel Effects of it: But if Fame is to be a Guide in judicial Proceedings, and in criminal Cases, there is no Head safe; we are all in the Power of Whisperers and Defamers. But has publick Fame ever been thought sufficient to Conviction? No, my Lords, publick Fame has been said to be a Ground of Inquiry, but never of Condemnation. The Commons, in the Case of the Duke of *Buckingham*, Anno 1. Car. I. did, at the Instance of Dr. *Turner*, declare, that common Fame was a good Ground of Enquiry or Presentment; but as this was complain'd of by the Crown as an unparliamentary Proceeding, the Commons, in their Remonstrance a little Time after, receded from this Pretence, and affirm'd their Proceedings to be grounded upon their own Knowledge, or Proof, by the Examination of Witnesses, or other Evidence; and in every Article of their Accusation the particular Facts are express'd. But this is not my Case, my Lords; I see no Facts charg'd upon me, I hear of none; it is in vain to make a Defence against nothing; 'tis fighting with the Air.

But since, my Lords, the Commons have recommended some Witnesses to your Lordships, who, they say, did, in their Opinion, make out the Allegations in the Bill; pray let me examine what the Allegations in the Bill are, and how they were made out by the Witnesses, who have been examin'd before your Lordships.

My Lords, in that Part of the Preamble of the Bill which charges me, it is alledg'd, that *John Aislaby*, Esq; late Chancellor and Under-Treasurer of the *Exchequer*, and one of the Commissioners of his Majesty's Treasury, and a Member of the House of Commons, in Breach of the great Trust in him repos'd, and with a View to his own exorbitant Profit, has combin'd with the said Directors of the *South-Sea Company* in their pernicious Practices and has

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 Geo. I. been guilty of most dangerous and infamous Corruption, to the Detriment of great Numbers of his Majesty's Subjects, and manifest Prejudice of the publick Credit, and of the Trade of this Kingdom.

‘ My Lords, in considering this Charge, I am at a Loss to find in what Capacity I am accus’d of Breach of Trust. The Title of *Chancellor of the Exchequer* stands there, I suppose, *Ornamenti gratia* ; ’tis an Office of great Honour and Dignity, but has no Relation to this Affair, or to the Execution of the *South-Sea* Scheme ; nor is that Officer so much as mention’d in any Act of Parliament since the first Constitution of the Company ; it is a distinct Office from the Treasury, and in some Instances without much Influence, tho’ join’d in Commission with that Board.

‘ I must then stand accus’d as one of the Commissioners of the Treasury, or as a Member of Parliament, or both.

‘ I flatter myself, my Lords, that I have acquitted myself in these two Capacities with the same Integrity and good Faith as the rest of my Brethren ; nor can I understand how I could commit any one Act in Breach of my Trust, as one of the Commissioners of the Treasury, without the Participation of at least two of the same Board.

‘ I have perus’d the Acts of Parliament relating to the Execution of the *South-Sea* Scheme, and desire they may be read, that it may be seen how far the Treasury were concern’d, or were intrusted with any Part of the Execution of the Scheme, that we may know wherein this Trust consisted, and so have Recourse to such Facts as may charge me and others with a Breach of it. My Lords, I know of nothing that concerns the Treasury in those Acts, but what relates to the making forth and issuing the *Exchequer*-Bills to be lent to the Company, besides the Constitution of Commissioners relating to the taking in of the publick Debts, which Commission your Lordships have affirm’d : [see p. 130] And as to those Bills, my Lords, no Man has accus’d me, not Sir *John Blunt* himself ; he tells you upon his Examination here, as he told the other House before, that he took it to be the Sense of the House of Commons, that the Company might lend out the *Exchequer*-Bills upon their Stock, having been admitted to hear the Debates of the House upon that Occasion, and that they were therefore so lent out.

‘ My Lords, there is not one Word more in all those Acts of Parliament that implies any farther Trust, nor is there any Power given or reserv’d to the Commissioners of the Treasury to direct or controul the Directors, but what has been literally pursu’d by the Treasury. Where then is this Breach of Trust in me, as one of the Commissioners of the Treasury ?

Treasury? Is there any Trust repos'd in me in any Capacity that makes me responsible to the *South-Sea Company*? If not, how comes the Chancellor of the *Exchequer*, and one single Commissioner of the Treasury, to be confiscated for the Use of some of his Fellow-Subjects for Breach of Trust?

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' If then this Breach of Trust is no where to be found, let us examine next, wherein I have combin'd with the late Directors in their pernicious Practices. By the Reference the Commons make to the Matters of Fact, suggested in the former Part of the Preamble of the Bill relating to the Directors, one might expect to find these Practices set forth there, in order to make out the Charge of which they stand accus'd.

' My Lords, I have look'd into this Part of the Preamble relating to them, and find it is only said, that they, the Directors, under Colour of the late Act, have carry'd on many notorious, fraudulent, indirect Practices, contrary to the Intention of the said late Act, not only to the immense Loss of the Company, to Seven Millions and upwards, but the great Detriment of the Publick, &c. But the Particulars of these Practices are no where specify'd: I have heard, indeed, they once stood Part of this Bill, but were afterwards left out as so many Incumbrances upon it; and if I may be allow'd to take Notice of what the Commons upon Deliberations have suppress'd, I would acquaint your Lordships, that that Part of the Preamble of the Bill which relates to the pernicious Practices of the late Directors, as tending to the immense Loss of the Company, to seven Millions and upwards, was compriz'd in these Words, *viz.*

' That the Directors have been guilty of several Corruptions, Breaches of Trust, Frauds, and Abuses, by contriving the fictitious Stock of 574,500 *l.* Stock, and entering it in their Books, to be sold for 1,213,575 *l.*

' That they also lent upon Stock, or pretended Stock, contrary to the Resolutions of the Court of Directors, several Sums amounting to 943,631 *l.* over and above the 500,000 *l.* to which the Loans were restrain'd; and more, 406,903 *l.* over and above the Sums limited to be lent; and more, several Sums beyond what they were limited, which Excesses amount in the whole to 3,746,467 *l.*

' That they also lent upon Subscription-Receipts 2,219,089 *l.* without Authority from the Company, which Loans, or pretended Loans, upon the Stocks and Subscriptions, amount in the whole to 5,965,556 *l.*

Ficti-

Anne 7. Geo. I.

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Fictitious Stock	£	1,213,575
Total on Stock and Subscriptions		5,965,556
		<hr/>
		7,179,131

‘ Here, my Lords, you have a plain Account of all the Directors pernicious Practices; let it now be enquir’d, what Evidence has been given to your Lordships, to make out my having combin’d with them in all, or any of those Practices.

‘ As to the first Article, in Relation to their contriving the fictitious Stock of 574,500 £. and entering it in their Books, to be sold 1,213,575 £. there is not one Word said by any of the Directors, that I was privy to it, or that they ever heard, or suspected, or that there was even so much as a Whisper amongst them, that I had, or was to have any Part of it; and the Secret Committee themselves, after having, in the most extraordinary, as well as the most solemn Manner, examin’d them all to this Fact, were pleas’d to say, there was no such Charge against me.

‘ As this was the Fund for all the Corruption, and the Source of all our Misfortunes, I think myself extremely happy, let my Fate be what it will, that I stand clear and acquitted, in the Judgment of my worst Enemies, of this criminal and cursed Transaction. And as this was a Work of Darkness, that has not yet been perfectly brought to Light, and as it was in its Nature such, as carry’d the greatest Secrecy and Security with it; and as I am the Person suppos’d to have been the Author of the Scheme, and the Director of the Directors, and one who commanded every Thing, is it possible to imagine, that I should neglect to take my Share of this mighty Harvest, and trust to the Secrecy of an infamous Broker, and the Hazard of an open Market?

‘ But notwithstanding the Secret Committee, who spar’d no Pains in their Inquiries relating to me, have not thought fit to charge me upon this Head, but have entirely acquitted me, I find some Notice is taken of what Mr. Surman has said concerning the Green Book, wherein he saw my Name to an Account that was balanc’d: Whatever Notice your Lordships are pleas’d to take of that Information, the Gentlemen of the Secret Committee knew better than to insist upon it in their Charge, since that Account is said to be after the Bill was pass’d, and to be balanc’d; and, consequently, I must have it to produce, unless by some extraordinary Accident, or Artifice, I should have lost it. But as Mr.

Surman

Surman has prov'd, that *Knight* kept my Cash long before the Scheme took Place, and was indebted to me for a great Sum in *November 1719*, so, my Lords, I declare I am not concern'd how those Accounts are expos'd, if they can possibly be brought to Light; and as I have this Account mention'd by *Mr. Surman*, to produce, if your Lordships require it, so I wish from the Bottom of my Soul, that the Green Book, so famous in Story, may be produc'd (as perhaps it may) before it be bury'd in Oblivion.

Anno 7. Dec. 1.

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' The Directors, and others, examin'd to the rest of the Articles, making up the seven Millions and upwards, do all declare, that I was not privy, or in any Manner a Party to their Transactions, or in the least contributed to the Loss sustain'd by the Company in an Article of that Account: As these Proceedings were the chief, if not the only Causes of the Misfortunes of the Company and the Publick, I am still extremely at a Loss to know what the pernicious Practices were, that can make me an Accomplice or Confederate with the Directors.

' The selling of their own Stock, and buying it for the Company, could not, in its Nature, be communicated to me, and has been deny'd by them all.

' The declaring the great Dividends at 30 *per Cent.* for *Christmas*, and not less than 50 *per Cent.* for not less than 12 Years after, was a Transaction when I was in the North, and they all declare I knew nothing of it.

' The Additions to the first and second Subscriptions, and the Deficiencies of the third and fourth Subscriptions; are attested to be done without my Privy or Advice.

' And as to the taking in any of the Subscriptions at what Price soever, *Sir Theodore Janssen*, and others, have told your Lordships, they were done at the Instance of *Sir John Blunt* solely, by Starts and Surprise, and agreed to the same Day, without sending to, or advising with *Mr Aislabie*, or any body else.

' Here, my Lords, you have all the Facts and pernicious Practices with which the Directors are charg'd, either by the Resolutions of the Lords or Commons; and here is not one Witness that has been examin'd before your Lordships, that hath not entirely acquitted me of any Combination with them, in these, or any other of their pernicious Practices. These are the Contents of this general Charge of the Commons against me, as far as I can collect them, and which have requir'd more Pains to discover and put together, than it has done to answer them.

' I shall now proceed, my Lords, to examine the only two Facts which the Commons have thought fit to

Anno 7. Geo. I. lay before your Lordships, and deliver'd at the Conference.

1721.

The first of these is said to be grounded upon my own Confession in my Place in the House of Commons, viz. That on the 3d and 19th of December 1719, 22,000 *l.* South-Sea Stock was bought by Mr. Robert Knight, late Cashier of the South-Sea Company, for me; and, that I deliver'd in to the Commons a Paper of the Hand writing of Mr. Knight, containing Part of an Account, in the Words following :

Dec. 3.			
1719.	To South-Sea Stock bought 10000 <i>l.</i>		12300 00
	at 123 —————		
19.	Bought more 12000 <i>l.</i> at 126 $\frac{1}{2}$ ———		15180 00
	To $\frac{1}{2}$ per Cent. paid S. Storde 22000 <i>l.</i> —		27 10
	To $\frac{1}{2}$ Part 217 <i>l.</i> 10 <i>s.</i> lost, as above —		108 15
24.	To Cash paid back —————		193 15
			<hr/>
			27810 00
Dec. 10.	Receiv'd in Bank Notes ———		12300 00
19.	Receiv'd more in full —————		15510 04
			<hr/>
			27810 00

My Lords, I have the greatest Honour and Regard for the House of Commons imaginable, and shall always pay the greatest Deference to every Thing that proceeds from them; even their Censure, and my Misfortunes, I bear with Patience, and Submission to their Authority: And as I am sensible their Displeasure was drawn upon me by unlucky Incidents, and want of Opportunity of understanding the Truth of my Case, so I doubt not but they will be pleas'd that I have this Opportunity of defending my Innocence, and clearing it from the Mistakes and general Prejudice under which I have been unhappily oppress'd; nor can their Honour be concern'd, or that of the Secret Committee, if I am acquitted by your Lordships of the Crimes laid to my Charge, if they appear to your Lordships to be ill-grounded; I shall therefore take the Liberty to say, I am extremely surpriz'd to find the Commons make Use of the Word *Confession* upon this Occasion. *Confession*, my Lords, implies Guilt, and is the Declaration of some Fact suppos'd to be criminal: But this is not my Case, nor, with Submission, is it the Fact; this Paper, my Lords, this Account prov'd by Mr. Surman, and allow'd by the House of Commons to be an Account of Stock bought and paid for with

my own Money in the beginning of *December 1719*, was produc'd by me in the House of Commons in my own Justification, to prove a valuable Consideration in Mr. *Knight's* Hands, and Security given for 20,000 *l. South-Sea* Stock bought the Beginning of *March* following, and paid for by Mr. *Knight*. This, with other Effects of mine of great Value, were proved to be in his Hands at that Time, more than sufficient to answer the Value of the said 20,000 *l. Stock* bought, by my Order by Mr. *Weymouthfold*; whereof, if any Doubt remain, I am ready to produce the most authentick Vouchers.

Anno 7. Geo. I.

1721.

' This Paper produc'd as Evidence by me against a Charge of Corruption, is now, by an unaccountable Turn, made an Article of Corruption itself, or at least tending to support the Charge in the Preamble in some Manner. I cannot very well guess what the Commons would infer from this Account, or what it tends to; I suppose it is meant to shew, that it was done with a View to the Scheme which afterwards took Place, and to my own exorbitant Gain, since they are pleas'd afterwards to subjoin this Observation: That upon the 20th of *January 1719*, the Commons resolv'd, that their House would, upon the 22d of that Month, resolve itself into a Committee of the whole House, to consider of that Part of his Majesty's Speech which related to the Publick Debts, which the House did accordingly; and that afterwards, on the 27th of *January*, the House again resolv'd itself into the said Committee, and the Committee did then receive Proposals from the *South-Sea* Company for paying the publick Debts.

' One would think that from this Observation, which the Commons themselves have made, there needs no other Proof, to shew that the Stock bought in the Beginning of *December 1719*, could not be bought with a View to the Scheme, that was not accepted 'till two Months after; and if it had been so, it would have been no more than every Chancellor of the *Exchequer* hath done at all Times before me; nay, I may venture to affirm, it hath been look'd upon as incumbent upon the Chancellor of the *Exchequer*, and all the other Officers of the Revenue, to encourage, by their Examples, all publick Undertakings of this Kind; and it must not be forgot, that at the first Establishment of this very Company, the then Chancellor of the *Exchequer*, and several great Officers of State, did condescend to be Directors of this Company, which was never thought a Crime, whether it was done with a View to their own Interest or not.

' But, my Lords, I will shew that this Stock was not bought with any such View; and if it were, that it does not make good any one Part of the Charge in the Bill; for

Anno 7. Geo. I. as it was bought with my own Money, it could not be a Breach of Trust in any Manner, nor could it be a dangerous and infamous Corruption, nor could it be in Confederacy with the Directors in their pernicious Practices, which are describ'd to have been committed by them under the Colour of the late Act, and therefore subsequent to it; nor was it bought with a View to my own exorbitant Profit, since it was not only two Months before the Commons accepted the Proposals of the *South Sea Company*, but even before the Scheme was so much as communicated to me, and, as I have prov'd to your Lordships, was sold out again that very Morning the *South-Sea Company* were resolv'd to outbid the *Bank*, and carry their Point at all Hazards.

My Lords, I have prov'd to your Lordships, that at the same Time that I bought this Stock in the *South-Sea Company*, I bought very near the like Value in the *Bank*, and continu'd it there after I had sold out of the *South-Sea*, which does not look like Partiality to the *South-Sea* Scheme. I have shewn your Lordships, that immediately after the *South-Sea* Proposals were accepted, I bought into the *East-India Company*, and not into the *South-Sea Company*, which is some Proof that I had no great Faith in their Scheme, or built upon it with a View to my own Profit: But to make it more evident that this Scheme was not founded by me in that Iniquity as is suppos'd, and that I had not those Views that are laid to my Charge, I have shewn your Lordships, that I was not the original Author or Promoter of this Scheme: I have prov'd by Sir *John Blunt*, that he first presented this Scheme to my Lord *Stanhope*, soon after his Majesty's Return from *Hanover*, in 1719. That my Lord *Stanhope*, some Time after, communicated this Scheme to me, and desir'd me to talk with Sir *John Blunt* about it; and that accordingly, about the latter End of *December*, 1719, I desir'd Mr. *Clayton* to meet Sir *John Blunt*, and Mr. *Knight* at my own House, to confer about it; which was the first Time that I talk'd with Sir *John* upon that Subject.

So that, my Lords, it is most evident that the Stock bought in the Beginning of *December*, could not be bought with a View of Gain from this Scheme, as is suggested by the Commons in their Paper, since the very Scheme itself was not communicated to me 'till the latter End of *December*; and taking all the other Circumstances along with it, that have been explain'd to your Lordships, I am satisfy'd you must think, that the Commons could not have done me a greater Service, than by stating this Fact as the chief Matter of their Accusation, which hath given me this Opportunity

portunity of clearing up some Mistakes, and laying open some Facts that were not known or understood before. Anno 7. Geo. I.
1721.

‘ Thus having clear’d up this Matter to your Lordships, I shall proceed to answer the next and last Article laid to my Charge, as it was deliver’d by the Commons to your Lordships, in which they give your Lordships an Account of a Transaction in their House, relating to the cancelling some Accounts between Mr. *Hawes* and me. I do not find that the Commons made this a Charge against me, in any of their Resolutions that Night they committed me to the *Tower*; but as this Story had the greatest Effect to inflame and raise a Prejudice against me in their House, so I doubt not but that it is laid before your Lordships in this solemn Manner, with an Expectation that it should have the same Effect in this House.

‘ My Lords, I know very well that many of my Judges in the other House, who acquitted me of every Part of the Charge brought against me, could not get over this slight, this ridiculous Incident. I must own, my Lords, my Conduct upon that Occasion was not so calm and circumspect as my Circumstances requir’d; but it might have warm’d a Man of a much more even Temper than myself, to see a most innocent Action represented in such a suspicious Light by the secret Committee, as to appear, in some Measure, criminal: And besides this, my Lords, the Order mention’d at the Conference to have been made for me to produce these Accounts, was introduc’d in such a Manner, as might surprise and shock the most wary Man alive; to be attack’d, as I was, entering the House, and before I was got to my Place, in a most unparliamentary Method, and by an unprecedented Motion, by one, who, of all Men living, had the least Right to make that Demand, and who could furnish, if he pleas’d, from his own Books of Accounts, more Matter of Enquiry, than all other Accomptants put together. I should not have mention’d this, but that I see that Transaction taken Notice of in the Paper deliver’d to your Lordships at the Conference.

‘ The Use that hath been made of this Story, has been to inflame and stir up the Minds of Men to believe that there were the greatest Secrets, the most criminal Matters, contain’d in these Books; and that they were cancell’d, or burnt, in order to destroy Evidence. I own, my Lords, when this Matter was press’d upon me in the House of Commons, I treated it with Neglect and Indifference, as knowing my own Innocence, and not dreaming of the criminal and false Construction that was afterwards put upon it: But since it has been so universally understood to my Prejudice, give me Leave, my Lords, in this Place, to re-

Anno 7. Geo. I. turn my Thanks again to my Accusers, that they have given me an Opportunity, before the supreme Court of Judicature of this Kingdom, to clear up this Matter, and to shew to the World, that there is nothing in this Story, either criminal or suspicious.

1721.

‘ I thank my Accusers, my Lords, for giving me this Opportunity of shewing the World, that there is a vast Difference between an Examination taken before your Lordships, and an Examination taken before the Secret Committee; for it may very probably happen, that they may be mistaken in what relates to me, since every Part of their Report hath been either rejected or dropt by the House of Commons, which related to any other Man living.

‘ I perceive your Lordships took this Matter first into your Consideration, as observing the Commons to lay the greatest Strefs upon it. You have examin’d Mr. *Hawes* in the strictest Manner, in Relation to the Nature of these Accounts, and the Manner of cancelling them.

‘ He has told your Lordships, *That there was nothing criminal contain’d in those Accounts; That there was nothing in them relating to me as a Chancellor of the Exchequer, nor to him as a Director of the South Sea Company, or as a Receiver of the Customs; that there was nothing in them that could be coustru’d a Breach of Trust; nothing that could be call’d a Combination with the South-Sea Directors, or had any Relation to them; nothing that could be call’d Corruption, or any Thing like it. He says, He bought some Stock for me in December 1719, but that it was sold again in three or four Days after, for very small Profit. And lastly, he says, this Stock was bought and paid for with my own Money, and not with the publick Money, or the Company’s Money. As to the Manner of cancelling them, he says, It was done in October last, before the King’s Return, and long before the Parliament met; that I had long since pass’d my publick Accounts, viz. in April 1720, that those Accounts were pass’d at my pressing Instances in half the Time that any of my Predecessors had pass’d theirs; that I had afterwards daily solicited him to have those private Accounts made up and deliver’d, but that his Affairs would not permit him to do it till October last; That I had press’d him to deliver up these Accounts, not only long before the Stock fell, but before it rose; that these Accounts were cancell’d, after I had given him a Discharge, by mutual Consent; and that he believes it was not done with a Design to conceal them from this Enquiry.*

‘ My Lords, this is the Evidence of Mr. *Hawes*; and I do not wonder that your Lordships were under some Surprise, that a Matter represented in so different a Light, and with which my Enemies have made so much Noise and Clamour, should, at last, come out as a fair and indifferent Action, in which

which neither the Publick, nor any private Person was concern'd, and to have been done without a Design of concealment or covering any Fraud whatsoever.

Anno 7. Geo. 2.
1721.

‘ There is something, my Lords, I must observe to you upon this Occasion, that makes me wonder how this Transaction came to be so much insisted on, unless it was to inflame more than to convince ; and that is, my Lords, (as I humbly conceive) that in Case these Books had been in being, and there had been any Thing criminal in them, or that might any Way affect me to my Prejudice, your Lordships wou'd not, as you are a Court of Justice, oblige me to produce them against myself ; this is a fundamental Maxim in Law, and has never been broke thro' in the most violent and arbitrary Times. And the House of Lords, in their Enquiries in 1640, were so tender of this great Principle of Law and Justice, that they made it a special Instruction to their Committees, that the Judges they had order'd to be examin'd, should not be examin'd upon any Thing to accuse themselves. And the Commons, during all the Enormities of those Times, never broke thro' this Rule, till they came to decide all Things by the Sword : And therefore, my Lords, if these Accounts could not judicially be demanded of me, in Case they were in being, and contain'd any Thing criminal in them ; there can certainly be no Crime in my having dispos'd of them as I thought fit, especially if it be consider'd, that they were my own private Books, no ways relating to me as a publick Accomptant, containing nothing in them criminal, or affecting the Interest of any other Person.

‘ I know, my Lords, very well, that in the Case of a Deed destroy'd, if a Witness proves that there was in that Deed any Clause to the Advantage of a third Person, or to the Prejudice of him that destroy'd it, such Clause shall be constru'd in the strongest Manner against the Person that destroy'd the Deed.

‘ But this, my Lords, is not my Case ; here is no Evidence produc'd to prove any Thing criminal in these Accounts, but on the contrary ; so that in Law and Equity they wou'd be taken as Accounts subsisting in my Favour, tho' unadvisedly cancell'd. Mr. *Hawes's* Testimony, relating to the Accounts in these Books, affords your Lordships another Instance, that may satisfy your Lordships that I had no View to the *South-Sea* Scheme in my Transactions contain'd in those Books ; since it appears by his Evidence concerning the Stock mention'd in them, that I parted with it before the Scheme took Place : But let that be as it will, can any Man call it a criminal Circumstance to com-

mit

Anno 7. Geo. I. 1721. mit the Papers, after they were cancell'd, to the Fire ? No, my Lords, it was a legal and an innocent Action.

‘ Thus my Lords, I have gone through every part of the Charge against me, either as it has been stated by the Commons, or fallen under the Examination of your Lordships ; and I hope there is nothing omitted in my Defence, that is necessary to prove my Innocence to the Satisfaction of all that hear me ; but if the least Doubt remain with your Lordships, in Relation to any one Fact charg'd upon me, I beg I may have the Opportunity, before I go from this Bar, of clearing it up, which I do not doubt to do by the plainest Proofs in the World.

‘ If therefore the Charge of the Commons in the Preamble of this Bill cannot be supported in any Part of it, by any one Fact whatsoever, can your Lordships ever be induc'd to consent to such Parts of the Bill as subject me to an arbitrary Jurisdiction, and cruel and new-invented Punishments ? My Lords, the Laws are our Birthright, and the Guide and Measure of all our Actions ; but where is the Law that I have broken ? Or, indeed, where is the Crime, or the Fact that is suppos'd to be a Crime, and which is to be punish'd by a Law made *ex post facto* ? A Law, my Lords, that dispenses with the very Forms of Judicature, and sets up a Tribunal unheard of before in any free Country !

‘ I believe, my Lords, this Bill is very little understood by most of the Gentlemen of the House of Commons ; and, perhaps, your Lordships may think the Penalties of this Bill less severe, at least in respect to me, than they are ; but your Lordships will give me Leave to explain that Matter to you in such a Manner, that you may better judge, whether I have committed any Offence equal to such severe and ignominious Punishments.

My Lords, as the Bill now stands, all my personal Estate, and great Part of my real Estate, which belong'd to me on the 1st of June 1720, or at any Time since, is vested in the Trustees, to be sold and apply'd to the Uses of this Act ; so that I am stript at once of every Shilling but what is settled upon my Family, and wherein I am but Tenant for Life. After this, my Lords, I am oblig'd to give 100,000 £, Security by Recognizance, with two other Persons to be bound for me in 25,000 £. a piece, that I shall not depart the Kingdom before a certain Time. This was not the Case of the Directors, but it is mine, that after my Estate is taken from me, I am oblig'd to give Security to the Value of ten Times more than I am worth. Is there a Friend in the World that can believe I am guilty of the least Thing laid to my Charge, that will be Security for me in this Situation ? Or have I any Counter-Security to give, but the little Stock of Credit and Reputation

Reputation that this Bill cannot take away? But some Gentlemen think, and my Enemies boast, that they have been very bountiful to me, and they have made me easy. If that be the Case, my Lords, what Occasion is there to suspect I should fly from my Country, my Friends, and my Estate? But if my Case be otherwise, if I am worse used than any of the Directors; if I am more branded and expos'd than any other Person in this Bill; who will not be apt to judge, from what has pass'd, that the same Spirit that has brought me to this, may be carry'd to greater Extremity? Am I not by this Bill put into the Power of every Villain, of this very Broker here, whose Evidence is his Merit? Am I not oblig'd to live in the Dread, and at the Mercy of every Informer like him? Others may think, and the Directors, perhaps may think Life under these Circumstances to be tolerable; but to me, my Lords, there can be no Comfort in it, but what my own Innocence secures to me.

There are some Clauses in the Bill that oblige me to give in Inventories of my real and personal Estate from such Times, and in such a Manner, as is impossible to be comply'd with; having never kept my Accounts in such a Method, as those that are bred up to Trade and Figures are used to do; and I believe very few Gentlemen in the Kingdom would, in their own Cases, think this practicable. But if my Accounts had been regularly kept, as I have no Clerks or Book-keepers to swear to them, so I do not know of what Use it could be to produce them to these Trustees, in Case they are minded to dispute them; for tho' they are entitled only to the *Incrementum* of my Estate since the first of October 1713, yet as they are to be vested with the whole of my personal, and great Part of my real Estate; and as I am to deliver up all my Writings, Papers, and Accounts to them, it is impossible to make out any Claim before them in any Manner whatsoever. And pray, my Lords, observe the Difficulties or Absurdities of this Case: Here is a Court erected of nine Persons, with absolute and unlimited Powers; some of these Gentlemen, perhaps, have been Accusers, but all of them are to be Judges and Parties; my Estate and my Title is to be put into their Hands, and then I am to claim what can never be made out but by the very Writings in their Possession. Was ever such a Jurisdiction establish'd upon Earth before, where Laws were in Use? No, my Lords, the original Cause of all Laws, and of civil Government, was to prevent Men's judging for themselves, and to oblige them to submit all disputable Matters to indifferent Parties: This is in a particular Manner the Basis of all our Laws, and it is the only Pillar by which Justice and Equity can be supported.



‘ But, my Lords, there is another Circumstance, which, in the Situation of my Affairs, makes any Claim impracticable ; that is, my Lords, the *Onus probandi* lies, in a great Measure, upon me, which, in regard to my personal Estate, is impossible ; unless my Judges are willing to be guided by the Circumstances of my Affairs, and my own Testimony.

‘ For Instance, my Lords, it appears to your Lordships, that there was an Account between Mr. *Harves* and me for seven Years past, wherein most of my Effects were contain’d, and he says about 30,000 *l.* *South-Sea* Stock was bought, before the Scheme took Place, with my own Money : It appears by the Paper deliver’d at the Conference, that I bought by Mr. *Knight*, two Months before the *South-Sea* Proposals took Place, 22,000 *l.* *South-Sea* Stock, and had several other Effects in his Hands ; and Mr. *Surman* has prov’d that Mr. *Knight* told him, that he ow’d me a great Sum of Money long before this, having kept my Cash for two or three Years before, none of which can be suppos’d to be the Increase of my Estate since *October* 1718. How is it possible, my Lords, I can prove one Word of it ? As to Mr. *Knight*, it is not expected I should produce him ; and as for Mr. *Harves*, he says, those Accounts are cancelled, and he has made no other Entry of them. How is it possible, then, to prove any thing, especially to the Satisfaction of my Judges, who are also Parties ? For it must be to their Satisfaction, and not otherwise, the Bill says, that my Proofs must be made. If they are not pleas’d to be satisfy’d, then, indeed, I may appeal to another Court erected for this Purpose, *viz.* to the Judges in *Westminster-Hall*, who will expect legal Evidence to maintain an Appeal, which, in my Case, my Lords, I have shewn, is not to be done.

‘ I cannot but take Notice of one Punishment more that seems to be oddly suited to that Part of my Accusation, relating to the cancelling of my Accounts with Mr. *Harves* : The Commons, for want of having that Matter clear’d up, as it has been before your Lordships, have thought that Transaction a great Offence ; and the Punishment of that Offence is, that I shall make up those very Accounts which my Accusers say are destroy’d, and which are no more in Being : Indeed I must own they have been so kind as to exempt me from all Danger on this Head for the future, by disabling me from having any more Accounts to make up.

‘ Since I have spoke of disabling, my Lords, I beg Leave to take Notice of a Clause that contains a new and dangerous Punishment, that was lately added to this Bill ; that is, my Lords, the Clause for incapacitating the late Sub-Governor, &c. from sitting or voting in either House

of Parliament, or from holding any Office or Place of Trust Anno 7. Geo. I., under his Majesty, his Heirs or Successors.

1721.

‘ My Lords, I must presume to say, from some little Incidents that have happen’d, this Clause was not the Punishment of a *South-Sea* Sin, and these unfortunate Men were only thrown in, to make the Draught go down the better. But how consistent this Punishment may be with good Policy and a free Government, I submit to your Lordships Consideration.

‘ Here are no less than 36 Fellow-Subjects cut off at one Stroke from the Commonwealth, and stript of the Birthrights and Privileges of *Englishmen*; I mention it to your Lordships as you are the Guardians of those Rights and Privileges, that you may oppose an Attempt, in its first Instance, that seems to threaten our Constitution, and shake even *Magna Charta* itself. No Man, since we were a Nation, has been so bold as to think of creating so dangerous a Precedent, which, if it had been establish’d sooner, had before this Day exceedingly thinn’d the Ranks of our ablest Patriots.

‘ But, my Lords, if this Bill must pass in any Manner as to me, I am not concern’d as to the Effects of this Clause. I say, if this Bill pass, (as they say it must) my Ambition is at an End; ’tis too late for me to begin the World again; but an ill-natur’d Man would be pleas’d, at his going off the Stage, to leave this Legacy to those that come after him.

‘ Precedents, my Lords, will advance, and this Precedent will not sleep. The Violence of the Times, and the Rage of Parties, is too great to drop a Precedent so useful as this will be.

‘ I shall trouble your Lordships no more than to say, that if I must be sacrific’d to appease the Fury of the misguided Multitude, I heartily wish it may have that Effect, which will be some Alleviation to my Misfortunes. But in vain have the Guilty appear’d against me! in vain have they stirr’d up the Nation for one Man’s Ruin; my Fall will screen or secure no Man; if I am innocent, there is nothing can make me guilty. Let the Storm rage never so high at present, *Englishmen* will grow calm by Degrees, Truth is great, and will prevail.

Mr. Aislabe being withdrawn, the Lords order’d such other Witnesses, as he had to produce, to be examin’d the next Day; and, That the Directors of the *Sword-Blade* Company should then attend with their Books.

Mr. Aislabe’s
Witnesses, and
the Directors of
the *Sword-Blade*
Company or-
der’d to attend.

‘ Accordingly, on the 20th of *July*, the Lords in a grand Committee, resum’d the Consideration of that Affair, and examin’d the *Sword-Blade* Company, and their Books, by

Anno 7. Geo. I. which it appearing, that Mr. *Waller* had receiv'd vast Sums on Account of *South-Sea* Stock, their Lordships did not think fit to call for any other Witnesses; neither did Mr. *Aislaby* desire, that the Members of the Commons, who had been summon'd, should be examin'd. But being call'd in, and ask'd, what he had farther to say in his own Defence, he spoke as follows:

1721.

My Lords,

' I have already endeavour'd, and, I hope, with Success, Mr. *Aislaby*'s to satisfy your Lordships, that the Charge laid against second Defence. me in the Bill now depending, cannot be supported by any general Part of the Preamble, nor by the particular Facts stated by the Commons, nor by any Evidence produc'd before your Lordships.

' As your Lordships have examin'd all the Witnesses recommended by the Commons to support their Charge, I did conclude, when I came hither this Day, that after what I said Yesterday, I should not be call'd upon to offer any thing more in my Justification.


' But now, my Lords, I find here is a new Matter started, relating to Mr. *Waller*'s Account with the *Sword-Blade* Company, which is not within your Lordships Order, that confines me to such Matters only as relate to my own Defence.

' I have been a little surpriz'd and silent upon this Occasion, not knowing whether your Lordships expected, or whether it was fit that I should take any Notice of it; for as the Commons have not transmitted this Matter to your Lordships, as a Ground of their Charge, I take it for granted, they did not think it worth your Lordships Enquiry, or proper for your Judgment, being rather a Matter of Clamour, and only calculated for the People.

' I must own, my Lords, if it is expected I should give an Account of this Transaction, I am at a Loss to know how to go about it.

' For, first, I do not know the Contents of this Account, and, in the next Place, how shall I make it bear to my Charge, or any Part of it? How is it made out to be a Breach of Trust in the Chancellor of the *Exchequer*, to credit his Son-in-Law with any Sum of Money? Or how has he thereby combin'd with the *South-Sea* Directors in their pernicious Practices? Or how could he, in such an Act, be guilty of dangerous and infamous Corruption? There has nothing appear'd to your Lordships concerning this Transaction, but the Sum Total of the whole Account in such a Time; and it may happen, that

that a great Part of this Transaction has no Relation to *South-Sea* Stock, and that a tenth Part of it does not belong to me.

Anno 7. Geo. I.
1721.


‘ But where are my Labours to end ? How is it possible, my Lords, for me to dress up this Matter to be a Charge against myself ; It is to be imagin’d, I suppose, that all these Transactions have been upon my Account, and, consequently, that I must have been a great Gainer.

‘ I pity the Malice of my Enemies, that are reduc’d to such poor Shifts, as to endeavour to prove my deep Views and Designs from the most stupid Folly in the World, and my Riches and exorbitant Gains from this Instance, and another which I shall presently mention to your Lordships, that plainly shew my Losses.

‘ For is it possible, my Lords, that a Man, who is suppos’d to know the World, that is thought capable of forming a Scheme, and of directing the very Directors, should be so destitute of proper Agents, as to trust his Negotiations to an unexperienc’d Youth, who, by his Transactions, seems to have dipt as much in the Whims of the Alley, as any Adventurer of them all ? The Absurdity is too great, my Lords, to gain Credit any where, much less in this Place, that one, upon whom the Eyes of the World were fix’d, and whose Actions might be canvass’d with great Severity, should, in order to conceal his Affairs, commit ’em to a near Relation, acting in the most open and unguarded Manner.

‘ And as my Apprehensions, during the Execution of this Scheme, were become remarkable, and the Jest of all that embark’d in it, there can be nothing more extravagant than to make me a Party to this Gentleman’s Transactions, which were visibly carry’d on with a Spirit very different from mine, and which, from the Nature of them, seem to be the Effect of rash Councils, and suited to the Phrenzy of the Times.

‘ Mr. *Waller*, my Lords is a near Relation, but entirely independent of me, and who consulted me less upon this Occasion, than any other Man, whereof this Transaction with the *Sword-Blade* Company is the strongest Evidence : For, as he has told your Lordships, that I never knew of this Account, or his keeping his Cash there till they broke ; so it is improbable I should trust all my affairs to his Management, who dealt with a Company in whom I never had any Faith, nor with whom I ever had any Dealings.

‘ As to the Greatness of this Transaction, I must own, my Lords, if the Memory of this Year could be obliterated, it might very well surprize us ; but I must observe to your Lordships, that this Sum of 700,000*l* is not the Ballance

Anno 7. Geo. I. of the Account at any one Point of Time, as is generally understood, but the total Amount of several Sums paid and repaid many Times backward and forward, and sometimes great Part of it the same Day. And any Person used to Accounts must know, the 40th Part of this Sum, was more than sufficient to answer the whole Sum of 700,000 *l*.

1721.

‘ Many of your Lordships know the Truth of what Mr. *Waller* has told you, viz. that a great many young Gentlemen, and others, (whose Beginning was not so considerable as Mr. *Waller*’s, who had a very good real and personal Estate before the *South-Sea* Scheme was thought of) have transacted for as much as he did. Nor does it follow from the Greatness of the Transaction, that the Profit was extraordinary, since many have dealt for greater Sums than this, whose Fortunes are far from being improv’d ; and it is very plain, that 10,000 *l*. Stock, not stir’d at all, till sold out at the best Advantage, would have brought more Profit than all these numerous Transactions put together.

‘ My Lords, I am very free to own, that 53,000 *l* of this Sum belong’d to me, great part whereof is now lock’d up in the *Sword-Blade* Company, and depends upon the Goodness of their Security ; and I am far from declining to give your Lordships the most perfect Account I can of all my Transactions, notwithstanding Mr. *Waller* is not able to do it, who never kept any regular Accounts that ever I saw, but did every thing in the same Hurry and Confusion, as most other young Gentlemen at that Time did.

‘ I do not perceive that your Lordships have enter’d into the Examination of this Account, any farther than to know the Sum Total, which has not taken up much of your Lordships Time, notwithstanding the Gentlemen of the Secret Committee have employ’d much Pains in it, and have display’d it as a Discovery of my immense Gains, and a Transaction entirely belonging to my self.

‘ My Lords, it is very hard, that against all Evidence, against all Truth, and every Circumstance that conduces to it, such an Insinuation should proceed from any one Man, or Committee of Men, to the Prejudice, or Ruin, of an innocent Person.

‘ I dare say, my Lords they had no other Grounds in the World for it, but the vain Presumption from Mr. *Waller*’s near Relation to me, that he acted solely for me ; whereas it now appears to your Lordships, by Mr. *Waller*’s Evidence, that he acted for many other Friends as well as for me, and that I was not so much as privy to the Accounts he kept with the *Sword-Blade* Company.

‘ Is it then possible, my Lords, that your Lordships should give

give way to so groundless a Supposition, as that all this Account should belong to me ?

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‘ My Lords, if this way of proceeding had been the general Rule of judging in the Cases of others, the Secret Committee might have carry’d on their Enquiries against many in the Administration, with much more Justice and Certainty than against me ; and they might, if they had thought fit, from the Dealings of several Agents, Friends, and Dependents, who dealt for much more than Mr. *Waller*, have furnish’d Matter of Imputation against Persons, concerning whom they are altogether silent. And if it had not been too invidious in me, my Lords, to have ask’d the Question, Mr. *Waller* cou’d have nam’d to you some Persons, who had less Foundation of their own than himself, and who yet have transacted for much more, and who have the Honour to be known to some of the Secret Committee, as well as to much greater Men than myself.

‘ But, my Lords, as I am confin’d to what only relates to myself, give me Leave to say, that this Account of Mr. *Waller*’s with the *Sword-Blade* Company, and the Account of Stock bought and sold by Mr. *Weymondfold*, have been the chief Grounds of my Accusation, or rather of the publick Clamour, tho’ of the whole Ballance of this Account of Mr. *Waller*’s, when truly examin’d, there is but 53,000 *l.* belongs to me ; and Mr. *Weymondfold*’s great Account of 77,000 *l.* Stock, when fairly stated, is reduc’d to 12,000 *l.* Stock, now in my Hands. It was impossible to work People up to such violent and extraordinary Proceedings, without first raising the publick Envy and Resentment. It was therefore thought necessary to make the World believe, that I was immensely rich, and that I had gain’d my Wealth from the Spoils and Ruin of the unhappy Sufferers : It was necessary to make the World believe, that the Scheme was calculated by me with that View, and that I had the sole Conduct of it, or, according to the witty Turn of a very learned Gentleman, that I was the Director of the Directors.

‘ As the Opinion, my Lords, of my exorbitant Gains has almost universally prevail’d, be pleas’d to give me Leave to explain how a Report, so artfully rais’d and dispers’d about the Nation, came, at last, to be strengthen’d, and, as it were, sanctify’d by Authority of the House of Commons.

‘ The Secret Committee, who were appointed to enquire into these Proceedings, had, with great Pains and Application, examin’d and search’d into every Thing ; but before they could be ready to lay any great Discoveries before the House, in order to satisfy the Impatience of Gentlemen in some Manner, and to give a Specimen of their Labours, an

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honourable Member of that Committee stood up, and pronounc'd in his Place, that he had found out above ten Millions that belong'd to the Directors, and, by Way of Supplement, above a Million and a half more that belong'd to another Gentleman, whom he did not think fit to name at that Time. This hopeful Beginning gave much Satisfaction to those who delight in great Discoveries, and rais'd the Expectation of all his Hearers : But so dull was I, as not to find out that I was concern'd in this Description, 'till every Libel, and every News-Paper was full of it.

' But what did these vain Promises amount to ? Your Lordships have seen what the Directors have produc'd, and how far short it falls of this romantick Account. And as to myself, the Object of this solemn Enquiry, I doubt I shall not contribute much, tho' this Bill shou'd pass, to raise the Reputation of the Secret Committee in these wonderful Discoveries.

' Thus, my Lords, I have clear'd my Way thro' all the Dirt and Scandal that hath been thrown upon me ; I shall now beg Leave, my Lords, to lay before you a short Narrative of the Rise and Progress of this Scheme, and the Execution of it, after it pass'd into an Act, as far as has come to my Knowledge, that your Lordships may judge whether I have done my Duty, or have been guilty of any Omission.

' My Lords, I have prov'd by Sir *John Blunt*, that he first communicated his Scheme to the late Lord *Stanbroke*, soon after his Majesty's Return from *Hanover*, in 1719, that my Lord *Stanbroke*, some Time after, sent this Scheme to me, and desir'd me to talk with Sir *John Blunt* about it, which I did in the Presence of Mr. *Clayton* and Mr. *Knight* ; that there were several Alterations made in this Scheme, and, particularly, in one Part of it relating to the Funds of the *Bank* and the *East-India* Company, which were propos'd to be incorporated into the Funds of the *South-Sea* Company.

' And, at last, the Scheme was form'd and agreed to by all those in the Administration, as it was first open'd and propos'd in the House of Commons. And I do aver here, before your Lordships, that there was not one Step taken in this Affair before it pass'd into an Act, that was not taken by the Concurrence and Approbation of those in the Administration, and even some of the Secret Committee : And so cautious and diffident was I of the Success of so great an Undertaking, that tho' the Scheme was adapted to the Notions and Opinions of those Gentlemen, who, for two Sessions before, had oppos'd all Measures for reducing the Interest of the publick Debts, till the long Annuities were made

made redeemable ; yet I would not adventure to introduce it to the House of Commons, till it had been communicated to and approv'd of by them : And as this Scheme was then calculated with no inconsiderable Advantages to the Publick ; as it at once rais'd three Millions and a half towards the Discharge of the publick Debts ; and, at the same Time, put the long and short Annuities into a State of being redeem'd ; and, after four Years, reduc'd the Interest of the whole Debt of *England* to 4 per Cent. and thereby made a vast Addition to the sinking Fund ; I flatter myself, it could not have been thought a bad Bargain to the Publick, as some were pleas'd to represent it, or liable to those unhappy Consequences that have attended the Alteration of it, since it would have been restrain'd and ty'd down to such Conditions, as would have made it impossible for any Projectors to have hurt us.

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But, my Lords, these Measures were all broke at once, by a sudden Resolution of the Bank, who, before, had shewn a great Backwardness in undertaking any Thing for the reducing the publick Debts, and had treated this Scheme with great Contempt ; I say, my Lords, as soon as this Scheme was open'd in the House of Commons, the Gentlemen of the Bank were immediately stirr'd up to become Competitors for it, and to desire that they might be suffered to offer Proposals as well as the *South-Sea* Company.

It was very easy to see the Consequences of this Competition ; and I express'd my Fears to all those in the King's Service that were consult'd about it ; and we had a Meeting, where the Lords of the Treasury, and those in the Administration, were present, in order, as Sir *John Blunt* says, to persuade the *South-Sea* Company to advance their Proposals, and to offer four Millions certain : It was then, my Lords, that I again express'd my Fears of this Undertaking, and declar'd, that I did not see how the *South-Sea* Company could go through with it, if they were to give any more Money for it, without the Assistance and Concurrence of the Bank, and much less, if the Bank oppos'd them ; and upon this, I propos'd to the *South-Sea* Company, that the Scheme should be divided between them and the Bank, which drew from Sir *John Blunt* this memorable Saying, *No, Sir, we will never divide the Child.* For my Part, my Lords, upon this Occasion, I was entirely for dropping it ; nor could I be prevail'd upon, by those that press'd me very warmly, to have any Thing more to do in it ; and when a certain Gentleman of the Secret-Committee, at the Instance of an honourable Gentleman that is since dead, mov'd the House, that the Committee might be open'd again, to receive fresh Proposals from the two Companies,

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panies, and, as it were, to set up the Nation to Auction, I was so far from approving it, or giving my Consent to it, that I quitted the House upon it, and would not be present when it was mov'd. This, I think, was shewing my Dislike of it, as far as I could decently do it, in Respect to my Fellow-Servants, from whom I differ'd; and I defy any Man to prove, that from that Day, till the last Proposals of the *South-Sea* Company were actually accepted by the House of Commons, I ever spoke to, or confer'd with, or advis'd any one of the Directors of the *South-Sea* Company, to bid a Shilling more than they had done; and if they did advise with any in the Administration about these last Proposals, it was either at my late Lord Stanhope's, or at Mr. Secretary Craggs's; for they never came to my House afterwards, till the Bill was drawn. And, my Lords, to shew you my Dislike of this fatal Transaction, (since all the Arguments against me are drawn from Interest) I must acquaint you, that the Night before these Proposals were offer'd to the House of Commons, I was told at my Lord Stanhope's, that some of the *South-Sea* Company had been there, and that they were resolv'd to out-bid the Bank at any Rate. To this, my Lords, I then declar'd my Dislike, and gave Orders that Night to sell out all my *South-Sea* Stock, (except 2000 l.) which was actually done the next Morning, and which makes so great a Figure in *Weymondfold's* Account. Thus, my Lords, if we were to judge from Interest, I could not be thought partial to the *South-Sea* Company's Proposals, when I had so little Stock with them, and so much in the Bank; and, my Lords, there is nothing more notorious, nor which can be prov'd by more Witnesses, than that I did not go out to the Directors that Morning, to advise them to out-bid the Bank, (as Sir *John Blunt* would insinuate, tho' he has been contradicted in it by Mr. *Joye* and others) but that I sat still in my Place in the House of Commons, 'till the Proposals were receiv'd, expressing my Dislike of them to all those about me, and publicly declaring in the House, that I thought both the Corporations had out-bid themselves.

' Thus was this Scheme accepted, and as Sir *John Blunt* says, become the Act of the House of Commons; and, as it was their Act, it was my Duty, by the Nature of my Office, to see the Bill drawn and brought in accordingly.

' My Lords, there was something very extraordinary in the Consequence of this Affair, that the more the *South-Sea* Company were to pay to the Publick, the higher did their Stock rise upon it: Whether this proceeded only from the Distemper of the Times, that afterwards broke out into

such

such a Flame, and which was kindled by the Opposition of the *Bank*, and the Value they set upon the Scheme, by bidding so high for it ; or from what other Cause I cannot tell ; but from that Time it became difficult to govern it ; and let those Gentlemen that open'd the Flood-Gates wonder at the Deluge that ensued as much as they please, it was not in one Man's Power, or in the Power of the whole Administration to stop it, considering how the World was born away by the Torrent, and particularly the Members of the House of Commons : And I will be bold to say, my Lords, and the Gentlemen of the Bank, I believe, will own, that if they had carry'd the Scheme upon their last Proposals, they could not have executed it with Success ; and I will shew your Lordships from what they have done since, that they would have acted in the same Manner as the *South-Sea Company* hath done, and I am sure with more fatal Consequences to the Publick.

Anno 7. Geo. I.
1721.

' Thus, my Lords, was this Bill pass'd, and whatever Conditions, or Restraints might have been put upon the *South-Sea Company*, if the first Proposals had been accepted, they became now impracticable ; nor would the *South-Sea Company* submit to be controul'd in an Undertaking they were to pay so dear for. And notwithstanding it has been said that the Scheme could have been executed at 150 ; yet Mr. *Gibbon* has told you, and so will all the other Directors, that they would not have undertaken to have given so much as five Millions, if they had been restrain'd from selling their Stock higher than at that Price. And therefore, as there was no Power reserv'd to the Treasury to controul the Directors in the Execution of the Scheme ; and as there were such vast Advantages to accrue from it to the Publick, there was nothing remain'd for the Treasury to do, but to give them all the Assistance they cou'd, and particularly, what the Law had provided for them.

' For this Reason, my Lords, the *Exchequer Notes* were issued to them, tho' at that Time their Stock was high, and perhaps they might not want them very much, since it was easy at that Time for them to raise what Sum they pleas'd by Subscriptions.

' But as they were intitled to those Notes, and as they were demanded of the Treasury according to Law, the Commissioners of the Treasury cou'd not be so indiscreet, as to refuse them, without taking upon themselves the Blame of any Miscarriage ; and it is very plain, that the wisest of the Directors, who saw their Stock carry'd to that monstrous Height, where it never cou'd be supported, were apprehensive of the Consequences of it, and were looking out for every Pretence to lay the Blame upon the Administration.

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1721.

‘ But tho’ I was always upon my Guard in this Point, yet I do declare, I never was wanting to serve and assist them to the utmost of my Power.

‘ And tho’ perhaps, my Lords, it was in the Power of the Treasury, if they wou’d have taken upon them what did not belong to them, to have run down the Stock ; yet considering the Parliament was then sitting, the greatest Part whereof were deeply engaged in it ; it had been a bold Undertaking for the Treasury to have attempted to have brought down the Stock, and must have drawn upon themselves the Rage of all the Sufferers, and sure Destruction.

‘ This unhappy Affair, my Lords, began at a Time when the Passion and avaricious Desires of Mankind are grown up to a Madness and a Distemper, and one cannot without Pity look back upon the Rage and Folly of the Year.

‘ The unaccountable Success of this Undertaking gave Birth to many base and ruinous Projects ; and it must ever be a publick Reproach, that Encouragement was given to those two Bubbles that were establish’d, to raise a Supply for the Support of the Civil List ; ’tis very well known that those two Projects did not proceed from me.

‘ Whatever Opinion the World may have of the *South-Sea* Scheme, I will presume to say, these two Projects were founded in greater Iniquity, and contributed more to the publick Calamity than any Thing else.

‘ After this, my Lords, I may venture to say the *South-Sea* Scheme was become ungovernable ; and some of the wisest of the Directors were so sensible of it, that to do them Justice I must declare, they came to the Treasury, and offer’d to advance the Money for the Civil List upon sure and easy Terms, rather than that those Bubbles should take Place.

‘ But tho’ the Treasury were provided with Ways and Means for a Supply to the Civil List, without the Help of either ; yet those Projects, and others, had taken such deep Root in the House of Commons, and elsewhere, as made it impossible to oppose them ; and they had that Consequence which the Directors of the *South-Sea* Company foretold, and which every Body might foresee, viz. to encrease the Flame, by adding this unnecessary Fuel to it.

‘ As the *South-Sea* Scheme might give Birth to the Bubbles, so the Bubbles contributed to raise the *South-Sea* to that Height which brought us into this Condition.

‘ My Lords, I must not omit in this Place to take Notice, that this Spirit of Bubbling had prevail’d so universally, that, to shew you what wou’d have been the Case if the Bank had obtain’d

obtain'd the Scheme, the very *Bank* became a Bubble ; and this, my Lords, not by Chance or Necessity, or from any Engagement to raise Money for the publick Service, but from the same Spirit that actuated *Temple-Mills*, or *Gara-way's* Fishery. For this Purpose, my Lords, they entertain'd a Scheme, in Imitation of the *South-Sea*, of lending Money upon their Stock, which as it is contributed to raise the Price of their own Stock, so it furnish'd a Supply of Cash to the Gamesters in the Alley, that at once push'd up the Bubbles and the *South-Sea* to an immoderate Height. But as this was intended chiefly to advance their own Stock, let the Project come from what Hand soever, it was founded in the same Iniquity with any other Bubble, and was of ten Times more dangerous Consequence: For as *Bank* Stock was rais'd by it from 150 to 245, and as it has fallen from thence to 130, there have been many Millions lost upon it ; besides the fatal Consequence it had like to have had upon the publick Credit ; for, for want of this Money, which was lock'd up in Loans upon their own Stock, and could not readily be come at, they were at a Loss when the Crash happen'd, and were forc'd to have Recourse to a Subscription, supported chiefly by the Adventurers of the *South-Sea*, and to a memorable Bargain with the *South-Sea* Company.

And here, my Lords, whilst I am speaking upon this Subject, give me Leave to lament the Fate of the unhappy Proprietors of the Redeemable Debts, that were drawn in to subscribe their respective Estates, not so much from the Arts of the *South-Sea* Directors, as from the fatal Influence and Example of some of the chief Managers and Friends of the *Bank* ; who, tho' they now make the greatest Clamour for Justice, were the first that subscrib'd the Redeemables into the *South-Sea* Company ; and this, my Lords, they did not do by Surprise or Mistake, but upon great Deliberation ; having some Time before prepar'd for this Subscription, and purchas'd great part of this Debt, at advanc'd Prices for this Purpose. And there are some of these Gentlemen, and even some of my Accusers, that purchas'd the Redeemables, who thought me extremely silly for advising them against endeavouring to make their Fortunes by this Project. And it is likewise very remarkable, my Lords, that a Letter was produc'd to the House of Commons, under the Hands of the chief Directors of the *Bank*, whereby they made the most early Application, and in the most humble and abject Terms to their most determin'd Enemy, Sir *John Blunt*, to be admitted to this Subscription. It was no Wonder then,

Anno 7. Geo. I. that the wisest and most cautious of their Admirers went along with them, and much less that the Crowd shou'd be led into this fatal Error by their Example.

1721.


‘ I do not say this, my Lords, to lay any Blame or Imputation upon the *Bank*, but to shew your Lordships, that this grave and cautious Body of Men were touch'd with the Infatuation as well as others; and that some of their greatest Friends, and the loudest Complainers, were, in Spite of all Advice, the greatest Pushers in this chimerical Project.

‘ I must own, my Lords, I was pretty much surpriz'd to see this Work going on; but as the Act of Parliament had entirely divested the Treasury of all Power and Controul over the *South-Sea* Directors, in respect to the redeemable Debts, we cou'd be only Spectators of this melancholly Scene.

‘ Of this the Company was not ignorant, and therefore did not think fit to consult me, or any of my Brethren, about it, but hurried it on to Execution at once. They knew their Power too well, and were too much elated with their Prosperity, to think of consulting with the Treasury upon that Occasion; and to shew your Lordships, how vain it had been for the Treasury to have interpos'd, and of what little Weight the Chancellour of the Exchequer was at that Time with these Gentlemen, before the Treasury was adjourn'd I waited upon some of the Directors at the *South-Sea* House, to know if they had any Commands for the Treasury. I, indeed, took the Liberty to recommend to them, in a particular Manner, the expediting the Duplicates of the Subscriptions of the redeemable and irredeemable Debts, that the Proprietors might have their Stock in their own Hands as soon as possible; but I found them too busy in making their Loans, and squandering away the Company's Money, to mind such Trifles; and so I was dismiss'd by Sir *John Blunt*, with Leave to go into the Country. Such was the Pride of this mighty Projector at that Time, to whom so many have bow'd and sued for Favours!

‘ We have lost the Memory of every Thing, if in so short a Time it can be forgot how the Eyes of the World were turn'd from the Treasury, and the chief Ministers of State, to this great Oracle, whose Word (as Sir *Theodore Janssen* says) was a Law to the Company. To him we owe every Motion, and every desperate Step that was taken in the Execution of this Scheme; and therefore I cannot help saying, that the Countenance, which has been shewn him in another Place, is due to a Merit, that has not yet been made known to the Publick.

‘ But

‘ But this Glory, my Lords, did not last long, and I was scarce got down into the Country, when I was call’d back by the Cries of those concern’d in this unhappy Company. I found the Lords and others in the Administration met, and using their Endeavours to succour and support the Stock. The *Bank* by their Mediation was call’d in to the Assistance of the *South-Sea* Company, and an Agreement was made between the two Companies, to which I was rather a Witness than a Party. 

Anno 7. Geo. I.
1721.

‘ This gave some Life to their Stock, and stopp’d the Mouths of the Redeemables, who were grown very clamorous. I must own the just Concern I had at that Time, and shall always retain for this great Body of the publick Creditors; and I was pleas’d to see them so well satisfy’d with the Bargain the *Bank* had made for them, and for themselves, upon whom they pinn’d their Faith so absolutely. And for my Part, I who was not in the Secret could not but think it a real, and sincere Bargain, since it was made in so solemn a Manner, between a Committee of both Companies, in the Presence of many Lords and Gentlemen in the Administration, confirm’d and ratify’d by the Court of Directors of each Company, and at last signify’d in Form to the Commissioners of the Treasury, by Sir *John Cope*, one of the Directors of the *Bank*.

‘ I could not suspect there was any Intrigue, or Deceit in this Transaction, ’till I saw, from the extraordinary Motions in the Alley, and several private Hints that were given out, what was intended. I could not think it possible that the Gentlemen of the *Bank*, who had such great Interest in the Redeemables themselves, should drop so many Thousands of the unhappy Proprietors, who had depended so entirely upon them, and who would certainly have found their Way out of this curst Labyrinth, if they had not been lull’d asleep by this fallacious Agreement.

‘ As for me, my Lords, I was thoroughly satisfy’d that this Agreement of the *Bank*, was a legal and a firm Bargain: And I can’t yet imagine, with what Face of Justice, or Equity, they could ever break thro’ it, without providing for the Safety of their Wards, (if I may use that Expression) the Proprietors of the redeemable Debts.

‘ Whilst that Bargain subsisted, and whilst the great Frauds and Embezzlement of the *South-Sea* Company’s Money were conceal’d, at least from me; and whilst Loans as yet were not remitted by the House of Commons, I did not think these Proprietors had so ill a Bargain, or could be so great Sufferers as I now find they are: For this Reason, my Lords, with much Reluctance, and after all the Delays that could be made, in order to give these Gentlemen the

Opportunity

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Opportunity to withdraw their Subscriptions, if they thought fit, we did sign the Instrument to the *Exchequer*, as the Law directs, and as we thought ourselves bound to do : But there was that Caution us'd, that after we had sent the Duplicates back to the *South-Sea* House to be corrected, and in order to give these Gentlemen Time to look about them, there was not one Person that pursued the Law, or made Use of the known Method of revoking his Powers given by Letters of Attorney, that was not reliev'd; and so far were the Proprietors indulg'd by Favour of the Treasury, that every Person who enter'd his Protest there, had his Claim satisfied by the *South-Sea* Company, before the Duplicates were allowed, and the Instrument sign'd. But after all this, my Lords, I must declare, that as I had no Design of forming a Power upon their Ruin, so no Views or Solicitations upon Earth, should have prevail'd with me to conclude them in their Properties, if I had thought the *Bank* wou'd have dropt them, and withdrawn themselves, or that the Loans would have been remitted.

' My Lords, I heartily lament the Misfortunes of those, who being drawn in by others, had not the Opportunity, or Skill, to relieve themselves : But for those, my Lords, that were Learned in the Law, or at the Head of the Law, and who by their Example, and perhaps Authority, drew others into this Misfortune, I am not concern'd if they are punish'd for their Folly, in purchasing these Debts, in order to subscribe them in with a View to their own exorbitant Profit; and no Man can pity them that crowded in with so much Precipitation, and who, after so much Time for Recollection, had not Law enough, in so known a Case, to find their Way out again.

' I do not intend, my Lords, by what I have said, to lay any imputation upon the *Bank of England*; for, as in all great Bodies, there are few that are let into the Secret, I suppose it might so happen here; but if what I have heard since be true, and what they say has been publicly avow'd, that this Bargain was never intended to be kept; then, I say, it was not only a useful Secret to those that were in it, but the most compleat Stratagem of the whole Year.

' But whoever hath contributed to the Misfortunes of the Redeemable Creditors, sure I am, their Destruction cannot justly be imputed to me; since I have only, as one of the Commissioners of the Treasury, comply'd with the Law, where I heartily wish they may find what Relief is due to them.

' If I may be allow'd, my Lords, to take Notice of another Body of unhappy Sufferers in this common Calamity, I believe I shall easily gain Credit, if I assure your Lordships, that

that I have nothing to answer for with respect to the Money-Subscribers. There is not one Man in the Kingdom that can lay his Misfortunes, on that Account, at my Door. No Body can say, that I advis'd, or encourag'd him in those Adventures ; there are Letters to be produc'd, that would make my Enemies ashamed, even some of the Secret Committee themselves, of their humble Solicitations for those Favours.

Anno 7. Geo. I.
1721.

' As to the Proprietors of the Old-Stock, they have no Reason to complain of me ; I have not robb'd them by Loans for my self, or any of my Friends ; and as all the Witnesses that have been examined, have entirely acquitted me, of advising, or being privy to any of those Loans, so I challenge all the World to prove that I ever recommended any one Man to the Company, to partake of them. And if I had those avaritious Views, that are suggested, I must have mistaken my Way very much, and have been little in the Secret, not to have secur'd a good Share of the publick Spoils out of these unwarrantable Loans.

' But as these Loans, and the Directors buying their own private Stock for the Company, with the Company's Money, were the chief, if not the only Causes of our Misfortunes, and the Ruin of the publick Credit ; so, my Lords, the Directors, I mean those that were in the Secret, were so far from consulting me, or any of the Commissioners of the Treasury, upon either of these Occasions, that notwithstanding my Endeavours to know the State of their Cash and Credit, they kept it as the greatest Secret from me, and guarded more against me, than against any other Man living. Nor could I ever learn from Mr. *Knight*, what those Loans amounted to, or upon what Security they were lent ; notwithstanding others were let into that Secret, 'till the Accounts thereof were laid upon the Table of the House of Commons. Thus, my Lords, I conceive I have given you full Satisfaction as to every Thing that hath been laid to my Charge, or that I can even suggest against my self, without the Help of my Prosecutors ; but if any Doubt remain with your Lordships, in Relation to my Defence, or if there be the least Circumstance that is not clear'd up, I beseech your Lordships that I may know it, before I withdraw.

' My Lords, I now perceive your Lordships do not think it necessary that I should take up any more of your Time : And therefore since I have gone thro' my whole Charge, and your Lordships are pleas'd to require no farther Satisfaction ; give me Leave to say before I conclude, that notwithstanding the Weight of publick Clamour, and the strictest and most torturing Inquiry that any one Man has ever under-

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1721.



gone, it is an unspeakable Happinefs that I have set my Innocence in so clear a Light ; and it is surprizing beyond any thing that ever happen'd, that amongst so many unfortunate Men, to whose Fate I am tack'd by this Bill, and who have been examin'd particularly againft me under all the Terrors of Death and Confifcation, and under all the Temptations that could be thrown in their Way, there is not one of them that has accus'd me ; but, on the contrary, they all have entirely acquitted me.

' This, my Lords, I muft call a Deliverance ; This will make me bear the worft of Punifhments without Shame. This is fuch a Tryal that no one ever paff thro' before ; and I heartily wifh that the worft of my Enemies may, in their Day of Trial, after fuch a Profection and fuch an Inquiry, be able to make their Innocence abide the Test as well as mine has done. I have made no bafe Submiffions, no unworthy Applications to any Man, notwithstanding the Vanity of one of the Secret Committee. My Innocence has been my only Screen, and your Lordships Juftice is my Refuge.

Clause againft
Mr. Aiflabie
paff'd.

After Mr. *Aiflabie* was withdrawn, the Queftion being put, that there was fufficient Ground to have his Name continued in the Directors Bill, it was carried *Nemine Contradicente* ; and fo he was remanded to the Tower.

July 21. ' The Lords heard Council upon the Petition of the Executors of the late Mr. *Craggs*, Senior, and then call'd in and examin'd feverally Sir *George Cafwall*, Mr. *Sawbridge*, Mr. *Surman*, Mr. *Horn*, and Mr. *Higgins*. It was alledged, in favour of the Petitioners, that Mr. *Craggs* had paid for his Stock, by a Note of 37,000l. from the *Sword-Blade* Company, payable to Mr. *Robert Knight* Treasurer of the *South-Sea* Company : And Sir *George Cafwall*, and Mr. *Sawbridge*, fwore that they had given fuch a Note : But when the Queftion was put to Mr. *Sawbridge*, whether the Note was paid, he firft answered evafively ; which put the Houfe into fome Heat, and the Lord *Trevor* flood up, and faid, He wonder'd that Auguft Affembly would fuffer themfelves to be trifled with at that Rate ? Hereupon Mr. *Sawbridge* being order'd to anfwer direftly upon his Oath, whether the Money mention'd in the Note, was paid or not ? He then own'd it was not ; nor ever intended to be paid, when it was given : Upon which the Houfe were fo thoroughly convinc'd of the fraudulent Collufion, that they would hear no more Witneffes, and fo paff'd the Clause relating to the late Mr. *James Craggs* Senior, without one Negative.

Lord Trevor.

Clause relating
to the late Mr.
Craggs paff'd.

The next Day the Lords went through the *South-Sea* Anno 2. Geo. I. Directors Bill, and put it off to the 24th.

On the 25th of *July*, their Lordships read the said Bill the third Time, and sent it down to the Commons, who readily agreed to their Lordships Amendments.

Nothing material happen'd in the House of Lords during the Remainder of this Session. On the 29th of *July* the King came to the House, and prorogued the Parliament to The Parliament the 31st. And on the 10th of *August* they were farther prorogued. prorogued to the 19th of *October*.

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## The SEVENTH SESSION of the FIRST PARLIAMENT of King GEORGE I.

ON the 19th of *October* the King came to the House, and having open'd the Session with a Speech\* as usual, the following Address was, upon Lord *Teynham's* Motion, agreed to; and the next Day presented to his Majesty.

*Most Gracious Sovereign,*

WE your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, beg Leave to return your Majesty our most hearty Thanks for your Majesty's most Gracious Speech from the Throne; and for the great Compassion you have shewn to such of your Subjects, as have had the Misfortune to fall into the Hands of the *Moors*. And we do at the same Time congratulate your Majesty, upon the Success of your Endeavours for restoring the general Tranquility of *Europe*. And we assure your Majesty, That, as the several Particulars you have been pleas'd to mention to us, are Instances of the greatest Affection to your People, and the tenderest Concern for their Interest and Security, so we will on our Part consider, with all Temper, Unanimity, and Dispatch, what your Majesty has been pleas'd to lay before us; and will do all in our Power towards attaining the great and good Ends, which your Majesty has so graciously recommended to us, in favour of the Trade, Ease and Safety of your People.

An Address of Thanks for the King's Speech at opening the Seventh Session.

To this the King made the following Answer:

*My Lords,*

I Thank you for this loyal and dutiful Address. The Zeal you express for my Person and Government, and for the Interest and Happiness of my People, gives me great Satisfaction.

1721.

A a

The

\* See the Speech in Chandler's History of the Commons, p. 263.

Anno 8. Geo. I.  
1721.

Mr Law, the famous Projector arrives in England.

Debate on that Occasion.

E. Coningsby.

Ld North and Grey.

E. Coningsby.

Ld Carteret.

The 23d of this Month Mr *John Law*, lately Comptroller General of the Finances in *France* arriv'd here. His Projects for raising Money had so enrag'd that Nation, that he was forc'd to fly for his Life to Venice; from thence paid a Visit to the Chevalier at *Rome*, afterwards to the Surprise of every Body, went to *Hanover*, and after a short Stay there came to *England*, on board one of the Ships of Sir *John Norris's* Squadron, who arriv'd at the *Nore* on the 20th, from *Elseur*: He was brought up to *London* by a Lord, with whom he had negociated for great Parcels of *South-Sea* Stock; was privately admitted at Court, and having taken a House near *Hanover-Square*, was visited by vast Numbers of Persons of Quality and Distinction: The House of Lords being met again on *Thursday* the 26th of *October*, the Earl *Coningsby* represented how dangerous it might be on several Accounts, to entertain and countenance such a Man as Mr *Law*; and desir'd that a Day might be appointed to take that Matter into Consideration. Hereupon it was order'd, That the House be call'd over that Day Fortnight; and then their Lordships adjourn'd to the 31st of *October*, and afterwards to the 9th of *November*.

On that Day the House being met, Lord *North and Grey* mov'd, That a Day be appointed to consider of his Majesty's Speech, and propos'd the *Monday* following. Hereupon Earl *Coningsby* stood up, and said, 'He was not against that Motion; but that their Meeting this Day in a full House, was to consider of the dangerous Consequences of Mr *Law's* coming over, at this critical Juncture: That, for his own Part, his Lordship could not but entertain some Jealousy of a Person, who had done so much Mischief in a neighbouring Kingdom; and who being so immensely rich, as he was reported to be, might do a great deal more Hurt here, by tampering with many who were grown desperate, by being involv'd in the Calamity occasion'd by the fatal Imitation of his pernicious Projects: That this Person was the more dangerous, in that he had renounc'd, not only his natural Affection to his Country, and his Allegiance to his lawful Sovereign, by being naturaliz'd in *France*, and openly countenancing the Pretender's Friends; but, which was the worst of all, and weigh'd most with his Lordship, that he had also renounc'd his God, by turning *Roman Catholic*: Concluding, that they ought to enquire, Whether Sir *John Norris* had Orders to bring him over?' To this Lord *Carteret* answer'd, 'That Mr *Law* had, many Years ago, the Misfortune to kill a Gentleman in a Duel, but that having, at last, receiv'd the Benefit of the King's Clemency, and

and the Appeal lodg'd by the Relations of the Deceas'd, being taken off, he was come over to plead his Majesty's most gracious Pardon: That there was no Law to keep any *Englishman* out of his own Country; and as Mr *Law* was a Subject of *Great Britain*, it was not even in the King's Power to hinder him from coming over, if he thought not. To this the Lord *Trevor* reply'd, ' That Mr *Law* was, indeed, a Subject of *Great Britain*, and therefore, as such, had an undoubted Right to come hither; but that the Circumstances of a Person of his Character being brought over on board an *English* Admiral, and at this Juncture of Time, might deserve the Consideration of that House.' Earl *Cowper* spoke much to the same Effect: But, however, that Matter was set aside, by the Lord *North* and *Grey*'s moving, that the House be call'd over that Day Sev'nnight. This being oppos'd by some Lords, who desir'd that the Call might be put off for a Fortnight, Earl *Cowper* said, ' It was the constant Usage of Parliaments for the House to be summon'd, to go upon Business, a few Days after their Meeting: That his Majesty had, in his late Speech from the Throne, mention'd Things of so great Importance to the Nation, that, for his own Part, he took Shame to himself, that he had not, before this Time, propos'd a Call of the House, to take the said Speech into Consideration: And that they were very much oblig'd to that noble Lord for making now that Motion.' This was seconded by the Duke of *Wharton*, the Lord *Trevor*, and Earl *Coningsby*, which last, in particular, said, ' That there were some very remarkable Things in that Speech, which he would point out to their Lordships, when it came to be consider'd; and that he should take the Liberty, not only to take Notice of that Speech, but to compare it with two Speeches of the last Session, and see how they agreed: That, in the mean Time, he could not forbear taking Notice of a Design of building Barracks, under the Notion of Pest-Houses, which his Lordship confess'd gave him some Uneasiness; for it being a Thing we were not us'd to, it look'd like a Design to garrison Standing Forces, to awe the City of *London*.' Hereupon Lord *Townshend* said, ' That the very Reasons which some Lords had made use of, for appointing a short Day, weigh'd rather with him for putting off the Call of the House for a Week longer; for since there was Business of so great Importance to be consider'd, the absent Lords ought to have the more Time allow'd them to settle their Affairs, in order to attend the Service of the House; whereas, if one Week only was allow'd them, many of them could not have dispatch'd their Business so soon.' Then the Question being put, whether the Call of the House should be

Anno 8. Geo. I.

1721.

Ld Trevor.

Ld North and  
Grey.

E. Cowper.

D. of Wharton.  
Ld Trevor.  
E. Coningsby.

Ld Townshend.

Anno 8. Geo. I. that Day Sev'nnight, or that Day Fortnight, it was, upon  
 1721. a Division, carry'd for that Day Fortnight, by 57 Voices  
 against 11. Notwithstanding this Disappointment, the Lord  
*Cowper* return'd to the Charge, and said, ' That tho' the  
 House were not call'd over so soon as some of their Lord-  
 ships desir'd, yet they might appoint a shorter Day to con-  
 sider of the King's Speech.' Urging, ' That it was hardly  
 decent, when a great King, in a peaceable Possession, had  
 made a Speech from his Throne, recommending to them  
 Matters of the last Importance, and pressing Dispatch, that  
 in all this Time they should have taken no farther Notice  
 of it, then barely to thank him for it, which was a Thing  
 of Course; and therefore his Lordship desir'd, that they  
 might go upon the Consideration of the King's Speech on  
 the *Monday* following; which was agreed to without any  
 Division.

Debate on the  
 Navy-Debt.  
 Ld North and  
 Grey.

E. Cowper.

Ld Trevor.  
 Ld Bathurst.  
 Bp of Wharton.  
 E. Coningsby.  
 Ld Carteret.  
 Ld Townshend.  
 E. of Sunderland.  
 Ld Teynham.  
 Bp of Rochester.

E. of Ilay.

Ld Parker.

Accordingly on the 13th of *November*, the Lords took  
 his Majesty's Speech into Consideration, and the Lord *North*  
*and Grey* insisted chiefly on the Debt of the Navy, saying,  
 ' That it was Matter of Surprise, how such an immense  
 Debt could be incurr'd, when the Parliament had yearly  
 provided for all that had been demanded for that Service.'  
 His Lordship was seconded by Earl *Cowper*, who went  
 through all the Heads of the King's Speech; and was  
 back'd by the Lords *Trevor* and *Bathurst*, the Duke of  
*Wharton*, and Earl *Coningsby*, who all insisted upon an In-  
 quiry into the Debt of the Navy. The Lord *Carteret*,  
 Lord *Townshend*, the Earl of *Sunderland*, and Lord *Teynham*  
 answered, ' That near two Thirds of that Debt had been  
 contracted in the last Reign; which they were ready to  
 make appear to the House.' The Bishop of *Rochester* re-  
 ply'd, ' That since the Debt was incurr'd, it was but Jus-  
 tice that they who trusted the Government should be paid;  
 but that, on the other Hand, it became the Wisdom of that  
 House, to endeavour to prevent the like for the future, and  
 to restore the Navy to the ancient Foot, that is, not to ex-  
 ceed the Expences provided for by Parliament.' In Answer  
 to this, the Earl of *Ilay* urg'd, ' That the publick Good,  
 and the Safety of the Nation, being the grand Object and  
 Rule of Government, some Latitude must of Necessity  
 be given, and Allowances made, to those who are in the  
 Administration for extraordinary Expences upon unforeseen  
 Exigencies.' Lord *Parker*, and some other Lords, spoke on  
 the same Side.

Then a Motion was made, That this House do on *Friday*  
 next take into Consideration the Causes of contracting so  
 large a Navy-Debt, and the best Methods of preventing the  
 contracting the like Debt for the future. And the Question  
 being

being stated thereupon, it was proposed to leave out the following Words, *And the best Methods of preventing the contracting the like Debt for the future.* After Debate, the Question was put, Whether those Words shall stand Part of the Question? It was resolved in the Negative. Content 22. Not-Content 64.

Anno 8. Geo. 1.  
1721.

### *Dissentient*

I. Because the principal End of all Parliamentary Inquiries into Mismanagements, being to prevent the like for the future, we thought it more agreeable to the Candour and Honour of the House, to express it plainly in the Question itself, than leave it to be implied only; and the rather, because it seemed to us, that the Words left out clearly imported that nothing personal was in View, but the Publick Good only, which, we thought, would rather have given Satisfaction to the Minds of every noble Lord, than the contrary.

Protest on that  
Occasion.

II. When the Words now ordered to be left out were, for the Reason given, so properly and naturally, as we conceive, made a Part of the Question, we could not but apprehend that the laying them aside on Debate might create a Suspicion, tho' unjust, that this House did not intend to prevent, if possible, the contracting a large and inconvenient Navy-Debt for the future.

III. His Majesty having, in his Speech from the Throne, observed the ill Consequences that arise from such a large Debt remaining unprovided for, we thought it very proper, if not necessary, in the Resolution taken to enter into the Consideration of that Debt, to express a Desire of preventing the like inconvenient Debt being contracted for the future; and that the doing so did not at all prejudice the Causes of contracting the present great Navy-Debt; for however necessarily or justifiably an inconvenient Thing might have once happen'd, yet we think it ought, if it can, to be prevented from happening so again.

IV. His Majesty having likewise observed in his Speech from the Throne, that this Part of the National Debt is, of all others, the most heavy and burthensome; and having set forth the Mischiefs arising from the high Discount on the Navy and Victualling Bills, we thought ourselves sufficiently warranted to express a Desire to consider of the best Methods of preventing the like most heavy and burthensome Debt, whatever the Causes of contracting the present Debt shall, on Inquiry, appear to be; and this the rather, because the like Navy-Debt can bring no manner of Benefit either to the Publick or any private Person, but to such as, by foreseeing when it is either to be discharged or provided for, may

Anno 8. Geo. I. may make an excessive Advantage to themselves by buying up the said Bills while under a very high Discount.

1721.

*W. Ebor', Bristol, Bathurst, Aberdeen, Bingley, Strafford, Scarfsdale, Asbburnham, Trevor, Guilford, Wharton, Boyle, Salisbury, Fr. Raffin', Aylesford, Cowper, North and Grey.*

**E. Coningsby.** In this Day's Debate the Earl *Coningsby* took Notice, ' That the Projector \*, who was lately come over, had, by his pernicious Schemes, brought the Plague of Poverty upon *France*, which had not a little added to the Calamity of the Contagion ; for when it first broke out at *Marseilles*, there was scarce 50 *l.* in the Treasury of that City.

Debate on a Motion for laying before the House the Instructions given to Ld Carteret, as Minister in Sweden. *November 15.* The Lords took into Consideration that Part of his Majesty's Speech, relating to the Alliances and Treaties with the *Northern* Potentates. Lord *Guildford* moved for an Address to his Majesty, That he would be pleased to give Orders, that the Instructions given to Lord *Carteret*, as Minister or Plenipotentiary to *Sweden*, or any other of the *Northern* Crowns, be laid before the House.

Ld Guildford.

E. Cowper.

E. Coningsby.

Ld Trevor.

D. of Wharton.

E. of Ilay.

Ld Townshend.

He was seconded by the Earls *Cowper* and *Coningsby*, the Lord *Trevor* and the Duke of *Wharton* ; but being opposed by the Earl of *Ilay* and Lord *Townshend*, it was carried in the Negative by 63 Voices against 21.

#### *Dissentient's,*

Protest on rejecting it.

I. Because we apprehend this to be the first Instance to be found in our Journals, where the Lords have moved for a Sight of Instructions of any Kind, and have not been supported by the House in that Motion ; and tho' we wish it may be the last, yet we have just Reason to fear, that such a Precedent once made will not fail of being followed in succeeding Times.

II. Because we do not apprehend, how the calling for Instructions after the Conclusion of the Treaty to which they relate, and the Intervention of a general Act of Pardon, can be hurtful either to the Publick, or even to the Ministers transacting such Treaties ; but the refusing to call for those Instructions may, in our Opinion, be a Matter of dangerous Consequence, in as much as it tends to discourage Inquiries of this Kind for the future, and by that Means to embolden and screen guilty Ministers hereafter.

III. Because, tho' we acknowledge the Right of Peace and War to be in the Crown, yet we must be of Opinion, that this House hath also a Right to inquire into the Transactions of Ministers employed under the Crown, and to censure their Conduct, when Justice requires it ; which cannot well be done, unless it be first known what Sort of Instructions

\* Mr John Law.

tions they received, and how far they have, or ought to have complied with them; and this seems to us more particularly necessary, since the Act of Succession has declared, that this Kingdom shall not be engaged in a War, on Account of any of the King's foreign Dominions; all Treaties therefore with Princes in the *North* should, above all others, be made in the plainest and most unexceptionable Terms; or, if the Way of wording such Treaties should occasion any Doubt, no Method of clearing it should be neglected or avoided, that so this House and the whole Kingdom may be satisfied, that nothing has passed derogatory to that Act, which is the Basis on which our present happy Establishment is founded.

Anno 8. Geo. I.  
1721.

*W. Ebor', Guilford, Boyle, Scarsdale, Aberdeen, Wharton, Cowper, Bingley, Aylesford, Bathurst, North and Grey, Uxbridge, Strafford, Bristol, F. Roffen'.*

On the 17th of *November* the Lords resumed the Debate about the Debt of the Navy. The Lord *Cowper* urging, ' That it was Matter of Wonder that so immense a Debt should be contracted in that single Branch, which was every Year provided for, and the Lord *Townshend* having alledged something by Way of Answer, the Earl *Cowper* reply'd to him; he was back'd by the Lord *Bathurst*, the Earl of *Aylesford*, the Earl *Coningsby*, the Lord *North and Grey*; but they were oppos'd by the Earl of *Sunderland*, the Lord *Harcourt*, and the Earl of *Ilay*; who represented, That about 1,100,000 *l.* of that Debt had been contracted in the last Reign, and the remaining Part upon extraordinary Emergencies, and in Pursuance of the Addresses of both Houses, which they were ready to make appear. The Lords on the other Side moved thereupon, That the Commissioners of the Admiralty be order'd to lay before the House an Account of the Debt of the Navy, as it stood in *September, 1714*, which was order'd accordingly.

On the 20th of *November*, the Lords considered of that Part of his Majesty's Speech relating to the Treaty with *Spain*. The Duke of *Wharton* open'd the Debate, and animadverted upon the Conduct of those in the Administration, both as to the War and Peace with *Spain*: And moved to address the King, That the late Treaty of Commerce, whereby the former Treaties of Commerce are renewed with *Spain*, may be laid before the House. He was seconded by the Earl of *Strafford*, and back'd by the Earls *Coningsby* and *Cowper*. The Lord *Carteret* having answered them, the Lord *North and Grey* and Lord *Bathurst* replied to him. The Lord Viscount *Harcourt* spoke in Vin-

Farther Debate  
on the Navy-  
Debt.E. Cowper.  
Ld Townshend.  
Ld Bathurst.  
E. of Aylesford.  
E. Coningsby.  
Ld North and  
Grey.  
E. of Sunderland.  
Ld Harcourt.  
E. of Ilay.Debate on the  
Treaty with  
Spain.

D. of Wharton.

E. of Strafford.  
E. Coningsby.  
E. Cowper.  
Ld Carteret.  
Ld North and  
Grey.  
Ld Bathurst.



Anno 8. Geo. I. 1721:  
 E. of Sunderland. dication of the Ministry, and the Earl *Coningsby* having answer'd him, the Lord *Sunderland* said, ' He did not doubt but his Majesty would be always ready to comply with the Desires of that House, and even in this Particular, as well as others: But that for his Part, he would be so free as to declare his Judgment against advising his Majesty to communicate the Treaty in Question, at this Juncture; because, to his Knowledge, there was in it a secret Article, which the King of *Spain* had desir'd might not be made publick, till after the Treaty of *Cambray* was over, and his Majesty having granted that Request, his Lordship therefore hoped, that House would not desire his Majesty to break his Promise. Hereupon the Question being put on the Duke of *Wharton's* Motion, it was carried in the Negative by 59 Voices against 22.

#### *Dissentient*

Protest on that Occasion.

Because, as we believe, the refusing to address for a Treaty, which has been concluded and ratified so long since, is altogether unprecedented; and we conceive, this Case, of all others, ought not to have been made a Precedent, where the Treaty desired to be call'd for hath been twice mentioned from the Throne to both Houses of Parliament; and the last time, in his Majesty's Speech at the opening of this Session, expressly (as we cannot but apprehend) recommended to the Consideration of both Houses of Parliament.

*W. Ebor', Aberdeen, F. Roffen', Guilford, Bingley, Wharton, Aylesford, Bathurst, Cowper, Fran. Cestriens', Strafford, Bristol, North and Grey, Boyle, St. John de Bletso.*

Farther Debate  
 of the Navy-  
 Debt.

Nov. 22. A Person from the Treasury presented to the House, according to Order, an Account of the capital *South-Sea* Stock, as it stood in the Year 1711. The Reason for the Lords calling for this Account was this. In the Debate about the Debt of the Navy, it having been alledged on the Court Side, that about 1,100,000 Pounds of it were contracted in the last Reign, the other Side objected the Improbability of it; because the Debt then due to the Navy was sunk into, and made Part of the original *South-Sea* Stock. To this it being answer'd by the Courtiers, that it did not appear to them to be so; and that the Books of the Navy and Treasury would set that Matter in a true Light, the Abstracts of the said Books, relating to that Matter, were order'd to be laid before the House. It was also objected by the Duke of *Wharton*, That 500,000 Pounds had been issued out of the Treasury, in the late Queen's

Queen's Reign, towards paying off the Debt of the Navy : Anno 8. Geo. I. Lord *Bingley*, who was then Chancellor of the Exchequer, being desir'd to tell what he knew of that Affair, acknowledged, that there was such an Order, but could not remember, whether the Money was issued \* out, or not. The same Day, the Commissioners of the Navy laid before the House of Lords, Accounts of the Debts of the Navy, as they stood in September 1714, and on the 31st of December 1719.

1721.

Ld Bingley.

On the 27th of November, the Lords went into a Committee of the whole House upon the Navy-Debt. The Commissioners of the Navy having laid before their Lordships some other Papers, relating to that Affair, the Earl *Cowper* made several Observations thereupon; and being seconded by the Earl *Coningsby*, was answer'd by the Lord Viscount *Townshend*: The Earl *Cowper* reply'd both to him, and to the Earl of *Sunderland*, who back'd the Lord *Townshend*. The Lord *Bingley*, and Lord *North* and Grey having supported the Earl *Cowper*, the Lord *Carteret* reply'd to them; and the Lord *Cowper* moved, that some other Papers, that were wanting to clear up this Matter, might be laid before the House by the Commissioners of the Navy, which was agreed to.

E. Cowper.  
E. Coningsby.  
Ld Townshend.  
E. of Sunderland.  
Ld Bingley.  
Ld North and Grey.  
Ld Carteret.

November 30. The Lords read the Bill, *For punishing Mutiny and Desertion, &c.* Then the Lord *Trevor*, took notice of the vast Number of Half-pay Officers, who were a great Burden to the Nation; and that no Care was taken, either to lessen that Charge, or to reward the past Services of the said Officers, by advancing them to such Posts, as from Time to Time became vacant in the Army; but, that instead of that, new Commissions were daily given, and other Officers created; concluding with a Motion, 'That the House might be inform'd, how the List of the Half-pay Officers stood, and whether their Number had been diminished since the Reduction of the Army; in which Time it was very probable many of them had dy'd. He was seconded by the Lord *North* and Grey, the Earl *Coningsby*, and the Earl *Cowper*, who were answer'd by the Earl *Cadogan*, and the Lord *Townshend*; but it was at last ordered, that an Account of the Number of Land Forces and Half-pay Officers, now in Pay, be laid before the House.

Debate on the Number of Half-pay Officers.  
Ld Trevor.

Ld North and Grey.  
E. Coningsby.  
E. Cowper.  
E. Cadogan.  
Ld Townshend.

December 2. The Commissioners of the Navy attended the House of Peers, and laid before their Lordships several Accounts and Papers relating to the Debt of that Office, upon

Farther Proceedings on the Navy-Debt.

1721

B b

\* The Earl of Oxford, then Lord Treasurer, had order'd that Sum to be issued out, either to stop the Clamours of the People, or really with Intention to pay it: But more pressing Occasions prevented the Execution of that Order.

Anno 8. Geo. I. upon which the Lord *North and Grey*, the Earl *Coningsby*, and the Earl *Cowper*, having made several Observations, the said Commissioners were examined thereupon, and ordered to lay some other Papers before the House.

1721.

Ld North and Grey.

E. Coningsby.

E. Cowper.

Dec. 5. The Lords went into a grand Committee upon the Debt of the Navy, the Earl of *Clarendon* being in the Chair. The Commissioners of the Navy, having laid before the House some other Papers relating to that Affair, the Earl *Cowper* moved that they might be read, which being done accordingly, his Lordship made several Observations thereupon. He was seconded by the Lord *Trevor*; the Earl of *Sunderland* having answer'd him, was reply'd to by the Earls *Cowper* and *Coningsby*. Lord *Sunderland* having spoke again, the Debate grew warm between the Courtiers and the opposite Side. Among the first were, the Lord *Carteret*, the Lord Viscount *Townshend*, the Duke of *Newcastle*, the Earl of *Cadogan*, and the Lord Viscount *Harcourt*; who were oppos'd by the Earls *Cowper* and *Coningsby*, the Lords *North and Grey*, and *Bathurst*, and the Bishop of *Rocheſter*.

Ld Trevor.

E. of Sunderland.

Ld Carteret.

Ld Townshend.

D. of Newcastle.

E. Cadogan

Ld Harcourt.

Ld Bathurst.

Bp of Rocheſter.

The Debate having laſted till five in the Evening, a Motion was made: That the employing great Numbers of Seamen for ſeveral Years laſt paſt, more than were provided for by Parliament, was one great Cauſe of contracting ſo large a Navy-Debt, and of increaſing the ſame, from the Sum of ſeven hundred ſixty-four thouſand eighty-eight Pounds, three Shillings and eleven Pence, which was the Net-Debt of the Navy on the 31ſt of *December*, 1717, to the Sum of one Million ſix hundred forty-one thouſand nine hundred thirty-ſeven Pounds, ſeventeen Shillings and eight Pence three Farthings, which was the Net-Debt of the Navy on the 30th of *December* laſt.

And a Queſtion being ſtated thereupon, after Debate, the previous Queſtion was put, whether the ſaid Queſtion ſhall be now put? It was reſolved in the Negative.

Content 21, Not-Content 60.

### *Dissentient'*

Proteſt on a Motion relating to the Cauſe of the Navy-Debt paſſing in the Negative.

Beauſe the main Queſtion being ſo true in every Particular, that, as we could obſerve, the Truth thereof was not denied by any Lord in the Debates, but ſeems to us to be admitted by the propoſing and carrying the previous Queſtion, we think it highly expedient that the main Queſtion ſhould have been put and voted in the Affirmative, to the End we might have expreſſed our Diſapprobation, at leaſt, of the Practice of employing much greater Numbers of Seamen in the Fleet, for ſeveral Years laſt paſt, than were provided for by Parliament (when the Occaſion for employing them could

not,

not, in our Opinion, but be foreseen) and by such our Dis-  
 approbation might have discouraged, in some measure, that  
 Practice for the future, and prevented the increasing of the  
 Navy-Debt again by the like Proceeding.

Anno 8. Geo. I.  
 1721.

*Strafford, Boyle, Uxbridge, Aylesford, Cowper, Bristol,  
 Trevor, North and Grey, Litchfield, Bingley, Gower,  
 Batbursf, Fran. Cestriens, F. Raffen, Guilford, Aber-  
 deen, Foley, St. John de Bletfoe.*

Decem. 6. A Petition of the Lord Mayor, Aldermen,  
 and Commons of the City of London, in Common-Council  
 assembled, was presented and read, setting forth, That  
 it appearing by the Inspection of the Journal of this House,  
 that their Lordships have now under Consideration, the A-  
 mendment of an Act pass'd in the last Session of Parliament,  
 intituled, *An Act for repealing an Act made in the Ninth  
 Year of the Reign of Her late Majesty Queen ANNE, in-  
 tituled, An Act to oblige Ships coming from Places infected,  
 more effectually to perform their Quarentine, and for the bet-  
 ter preventing the Plague being brought from Foreign Parts  
 into Great Britain or Ireland, or the Isles of Guernsey, Jer-  
 sey, Alderney, Sark, or Man, and to binder the spread-  
 ing of Infection*; the Petitioners conceive, that in some  
 Clauses \* of that Act, not only the Rights, Privileges, and  
 Immunities, but the Trade, Safety, and Prosperity of the  
 City of London are highly concerned; and praying, That  
 they may be heard by their Council, or otherwise, in rela-  
 tion to the said Act, at such Time, and in such Manner, as  
 their Lordships shall judge most proper and expedient.

Petition of the  
 City of London,  
 touching the  
 Bill relating to  
 the Plague.

B b 2

And

\* The Three Clauses in the Quarentine Act, VII. GEORGE II, are  
 as follows :

' If any Person infected with the Plague, or obliged to perform Qua-  
 rentine, shall wilfully refuse or neglect to repair within convenient Time,  
 after due Notice for that Purpose given by the proper Officer, to the Ship,  
 House, Lazaret, or other Place duly appointed; or having been placed  
 in such Ship, House, Lazaret, or other Place, shall escape, or attempt  
 to escape out of the same, whilst infected, or before Quarentine fully  
 performed, it shall be lawful to and for the Watchmen, appointed to see  
 Quarentine performed, by any kind of Violence that the Case shall require,  
 to compel every such Person so refusing or neglecting, or so escaping, or  
 attempting to escape, to return into such Ship, House, Lazaret, or other  
 Place, so appointed, as aforesaid; and every Person so refusing or ne-  
 glecting to repair to such Ship, House, Lazaret, or other Place appoint-  
 ed, and also every Person actually escaping, shall be adjudged guilty of  
 Felony, and shall suffer Death as a Felon, without Benefit of Clergy.

' If any Person not infected, nor liable to perform Quarentine, shall  
 presume to enter any Ship, House, Lazaret, or any Place so appointed,  
 whilst any Person so infected, or being under Quarentine, shall be there-  
 in, and shall return, or attempt to return, unless in such Cases, and by  
 such proper Licence, as shall be directed or permitted by such Order  
 made and notified, as aforesaid, it shall be lawful for the Watchmen, or  
 other

Anno 8. Geo. I.  
1721.

And a Motion being made, that the said Petition be rejected. After Debate, the Question was put, whether the said Petition should be rejected? It was resolved in the Affirmative.

Contents 48. Not-Content 22.

*Dissentient*

Protest on re-  
jecting it.

I. Because the Liberty of petitioning the King (much more then the petitioning either House of Parliament) is the Birth-right of the free People of this Realm, claimed by them, and confirmed to them soon after the Revolution, in an Act declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown; and when ever any remarkable Check hath been given to the free Exercise of this Right, it hath always been attended with ill Consequences to the Publick.

II. Because the Petition so rejected was, in our Opinion, every way proper and unexceptionable, both as to the Manner of wording and presenting it, and the Matter to which it referr'd; nothing being more natural and reasonable, than that any corporate Body should, if they desire it, be heard

other Persons appointed to guard such Ship, House, Lazaret, or other Place appointed, by any Kind of Violence that the Case shall require, to compel such Person, so returning, or attempting to return, to repair in- to some Ship, House, Lazaret, or other Place appointed, there to continue and perform Quarentine; and in case such Person shall escape out of such Ship, House, Lazaret, or other Place appointed for Performance of Quarentine, before the same be fully performed, he shall be adjudged guilty of Felony, and suffer Death as a Felon without Benefit of Clergy.

If at any Time hereafter, any City, Town, or Place within Great Britain, or Ireland, shall be infected with the Plague, it shall be lawful for his Majesty, his Heirs and Successors, to cause one or more Line, or Lines, Trench, or Trenches, to be cast up, about such infected City, Town, or Place, at a convenient Distance from the same, to cut off the Communication between such infected City, Town, or Place, and the rest of the Country, and to prohibit all Persons, Goods, and Merchandizes whatsoever, to enter, pass, or be carried over such Lines or Trenches, unless in such Cases, and by such proper Licence, and subject to such Regulations for Performance of Quarentine, as shall be directed by any such Order made and notified, as aforesaid; and in case any Person, being within such Lines or Trenches, or any of them, shall, during the Time of such Infection, attempt to come out of the same, (unless in such Cases, and by such proper Licence, and subject to such Regulations for Performance of Quarentine, as shall be directed by such Order made and notified, as aforesaid;) it shall be lawful for the Watchmen, or Persons appointed to secure such Lines or Trenches, or any of them, by any Kind of Violence that the Case shall require, to compel all and every such Person and Persons to return back within such Lines or Trenches; and in case any Person shall actually come out of such Lines or Trenches or any of them (unless in such Cases, and by such proper Licence, and subject to such Regulations as aforesaid) every such Person shall be adjudged guilty of Felony, and suffer Death as a Felon, without Benefit of Clergy.

heard upon any Bill under the Consideration of Parliament, Anno 8. Geo. I. whereby they judge their particular Interests to be highly, tho' not solely affected.

1721.

This Liberty we remember to have been granted in a late Session, to the Traders of *Norwich*, upon their Petition touching the Callico-Bill; nor are we aware, that it hath ever, in like Circumstances, been refused to the meanest Corporation in the Kingdom; but if it had, we humbly conceive, that in this Case a Distinction might have been made in favour of the City of *London*, which being the Center of Credit, of the Trade and Monied-Interest in the Kingdom, and the Place where the Plague, should we be visited by it, is most like first to appear; and having also remarkably suffered by means of the late fatal *South-Sea* Scheme, was, we think, in a particular manner intitled to apply for Relief against some Clauses in the *Quarentine-Act*, and deserved to have been treated on that Occasion with more Indulgence and Tenderness.

III. Because the rejecting the said Petition tends, we conceive, to discountenance all Petitions for the future in Cases of a publick and general Concern, and by that Means to deprive the Legislature of proper Lights, which they might otherwise receive, it being no ways probable that Subjects or Societies of less Consideration, will venture to represent their Sense, in Cases of like Nature, after the City of *London* have thus been refused to be heard.

IV. Because as the receiving this Petition could have had no ill Consequences, as we conceive, nor have given any great Interruption to the Business of Parliament; so the rejecting it may, we think, widen the unhappy Differences that have arisen, and increase the Disaffection to the Government, which hath already too much prevailed in this Kingdom.

V. Because the Arguments used in the Debate seem, to us, not to be of sufficient Force; for we cannot conceive, that because the said Act of Quarentine is a general Act, therefore no particular Community or City, who think they may, in a distinguishing manner, be prejudiced by it, have a Right to be heard in relation to it; and that at a Time when it is under Consideration of Parliament: Nor can we be of Opinion, that a Petition agreed on by the Lord-Mayor, Aldermen and Citizens of *London* in Common Council assembled, and presented, not even by the Numbers allowed by Law, but by a Lord of this House, can possibly be a Precede or Example towards producing tumultuous Petitions; much less can we see, why it ought the rather to be rejected, because it came from so great a Body as the City of *London*.

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1721.



*don.* On the contrary, we apprehend, that an universal Grievance, which may be occasioned by any general Act, must be represented to the Legislature by particular Persons or Bodies Corporate, or else it cannot be represented at all ; that the rejecting such Petitions, and not the receiving them, is, we think, the Way to occasion Disorders and Tumults ; and that the more considerable the Body is, the more Regard should be had to any Application they make, especially for Matters wherein not only the Rights, Privileges and Immunities, but also their Trade, Safety and Prosperity are, as the Petition avers, highly concerned.

*Bristol, Strafford, Gower, Fra. Cestriens', Bingley, Fr. Roffen', Aylesford, Trevor, Cowper, Aberdeen, Litchfield, Uxbridge, North and Grey, St. John de Blesloe, Bathurst, Guilford, Boyle, Coningsby.*

Debate on the  
Bill relating to  
the Plague.

E. Cowper.

E. Coningsby.

Ld Trevor.

Ld North and  
Grey.

E. of Strafford.

Bp of Rochester.

Ld Bathurst.

E. of Sunderland.

Ld Townshend.

D. of Wharton.

D. of Newcastle.

Ld Harcourt.

On the 11th of *December*, the Lords went again into a Committee of the whole House, upon the Bill to prevent Infection, and a very warm Debate arose. The Earl *Cowper* excepted against the Power given by the Clause for drawing Lines round any City, Town, or Place infected ; and mov'd, That the Cities of *London* and *Westminster* might be excepted. He was seconded by the Earl *Coningsby*, Lord *Trevor*, Lord *North and Grey*, the Earl of *Strafford*, the Bishop of *Rochester*, and Lord *Bathurst* ; but they were answer'd by the Earl of *Sunderland*, the Lord *Townshend*, the Duke of *Wharton*, and the Duke of *Newcastle*. Lord *Harcourt* suggested, That two hundred thousand Men would not be sufficient to guard such great Cities as *London* and *Westminster*, and therefore he thought it needless to except them.

Then the Question being put, upon the Earl *Cowper's* Motion, it was carried in the Negative by 45 Voices against 20.

Farther Debate  
on the Mutiny-  
Bill.

Ld Trevor.

*Dec. 12.* The Lords went into a Grand Committee upon the Bill, from the Commons, for *punishing Mutiny and Desertion, &c.* After the reading of it, the Lord *Trevor* excepted against the Clauses for punishing Soldiers with Death for Desertion ; and for exempting them from being arrested for Debt. His Lordship urg'd, ' That the Exercise of Martial Law, in Time of Peace, was unknown and repugnant to our Constitution : That such a Law was indeed necessary during the late Rebellion ; but there being at present no such Reason, and all being perfectly quiet and easy under his Majesty's mild Government, the Punishment of Offences committed by the Soldiery ought to be left to the Civil Magistrate. And that, on the other Hand, it was unreasonable to grant Soldiers a Protection from their lawful Creditors

ditors, since thereby a great many poor People, who might Anno .8 Geo. 1.  
be drawn in to trust them, might be ruin'd.

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This Speech was answer'd by the Earl *Cadogan*, and the  
Earl of *Sunderland*; to whom the Lord *North and Grey*, the  
Earls *Coningsby* and *Strafford*, and Lord *Bathurst* reply'd. The  
Lord *Harcourt* having spoken for the Bill, he was answer'd  
by the Earl of *Strafford*, to whom the Lord *Carteret* re-  
ply'd; and the Question being put, That the Number of  
Standing Forces be reduced, it was carried in the Negative  
by 67 Voices against 19. During this Debate the Earl  
*Coningsby* having severely animadverted upon some of the  
Lords Justices, appointed by the King when his Majesty  
went last to *Hanover*, insinuating, That no Body knew  
from whence they came; the Lord *Sunderland* said there-  
upon, 'He did not think any Thing that noble Lord, who  
spoke last, had said, or could suggest, to be a Reflection on  
the late Regency, of which he had the Honour to be one:  
But as they were chosen and appointed by the King, he  
thought it a Reflection on his Majesty, of which the House  
ought to take Notice, and therefore desir'd that his Words  
might be taken down in Writing. Hereupon, Lord *Co-  
ningsby* said, he did not mean any Reflection upon any that  
were living, but some of them that were dead.' To this  
the Earl of *Sunderland* reply'd, 'That in his Opinion, it  
was still more indecent, and unbecoming the Dignity of that  
august Assembly, for any who had the Honour to sit in it,  
to reflect on Persons that were dead, and could not answer  
for themselves, than upon Persons living, who could speak  
in their own Justification: And therefore his Lordship in-  
sisted, That the Earl *Coningsby*'s Words might be wrote  
down, in order to have him sent to the Tower:' But the  
Lord *Harcourt*, to moderate the Matter, said, 'He hoped  
that noble Lord meant no Reflection, however his Words  
might look that Way, and therefore desir'd he might have  
Liberty to explain himself.' Hereupon the Earl *Coningsby*  
declar'd, 'He did not intend to reflect upon any Body:  
That he was sorry what he had said had given Offence,  
begg'd Pardon of the House, and promis'd to take Care  
not to offend any more in that Kind for the future.

E. Cadogan.  
E. of Sunderland.  
Ld North and  
Grey.

E. Coningsby.  
E. of Strafford.  
Ld Bathurst.  
Ld Harcourt.  
Ld Carteret:

E. of Sunder-  
land's Motion  
for committing  
Ld Coningsby to  
the Tower, for  
reflecting on the  
Lords Justices.

Ld Harcourt.

E. Coningsby  
excused on ask-  
ing Pardon.

Dec. 13. The Lords went into a Grand Committee, upon  
the Bill to prevent Infection, which occasion'd a warm De-  
bate. The Earl *Cowper* moved, That a Bill be brought in,  
for repealing so much of the Act, pass'd the last Session,  
relating to the Plague, as gives a Power to remove to a  
Lazaret, or Pest-House, any Persons whatsoever infected  
with the Plague, or healthy Persons out of an infected Fa-  
mily, from their Habitations, tho' distant from any other  
Dwelling; and also so much of the said Act, as gives Power  
for

E. Cowper's Mo-  
tion for repealing  
some Clauses of  
the Quarantine-  
Act.



Anno 8. Geo. I. 1721. for drawing Lines or Trenches round any City, Town, or Place infected; his Lordship represented, That the Powers

Ld Cowper.  
Ld Trevor.  
E. Coningsby.  
Bp of Rochester.  
Ld North and Grey.  
E. of Strafford.  
E. of Sunderland.  
Ld Harcourt.  
Ld Townshend.  
Ld Carteret.

abovemention'd were altogether unknown to our excellent Constitution, inconsistent with the Lenity of our Free Government; such as could never be wisely or usefully put in Practice; and the more odious because they seem'd to be copied from the arbitrary Government of *France*, and could not be executed but by Military Force.' The Lord Cowper was seconded by Lord Trevor, and back'd by the Earl Coningsby, the Bishop of Rochester, the Lord North and Grey, and the Earl of Strafford, who reply'd to the Earl of Sunderland, the Lords Harcourt, Townshend and Carteret. But the Question being put thereupon, it was resolv'd in the Negative, by 39 against 20.

### *Dissentient's,*

Protest on a Negative being put on it.

I. Because the Powers specified in the Question seem to us such as can never wisely or usefully be put in Execution; for by the first of them, Persons of what Rank or Condition soever, either actually infected, or being in the same Habitation, tho' in lone Houses where they are well accommodated, and from whence there is no Danger of propagating the Infection, may be forcibly removed into common *Lazarets* or *Pest-Houses*; and it does not appear to us, that such a Power could, at any Time, be reasonably executed; and therefore, we conceive it should be repealed.

The other Power extends to the drawing of Lines around any City, Town or Place, and consequently around the Cities of *London* and *Westminster*; the very Apprehension of which, upon the least Rumour of a Plague, would disperse the Rich, and by that Means (as well as by hindering the free Access of Provisions) starve the Poor, ruin Trade, and destroy all the Remains of publick and private Credit.

II. Because such Powers as these are utterly unknown to our Constitution, and repugnant, we conceive, to the Lenity of our mild and free Government; a tender Regard to which was shewn by the Act *Jacobi I.* which took Care only to confine infected Persons within their own Houses, and to support them under their Confinement, and lodged the Execution of such Powers solely in the Civil Magistrate; whereas the Powers by us excepted against, as they are of a more extraordinary Kind, so they will probably (and some of them must necessarily) be executed by Military Force; and the violent and inhuman Methods which, on these Occasions, may, as we conceive, be practis'd, will, we fear, rather draw down the Infliction of a new Judgment from Heaven, than contribute any Way to remove that which shall then have befallen us.

III.

III. Because, we take it, these Methods were copied from *France*; a Kingdom, whose Pattern, in such Cases, *Great Britain* should not follow, the Government there being conducted by arbitrary Power, and supported by standing Armies; and to such a Country such Methods do, in our Opinion, seem most suitable: And yet, even in that Kingdom, the Powers thus exercised of late have been as unsuccessful as they were unprecedented; so that no neighbouring State hath any Encouragement from thence to follow so fatal an Example. In the first Plague, with which we were visited, *Anno Dom. 1665*, tho' none of these Methods were made use of, much less authorized by Parliament, yet the Infection, however great, was kept from spreading itself into the remoter Parts of the Kingdom; nor did the City of *London*, where it first appeared and chiefly raged, suffer so long or so much, in Proportion to the Number of its Inhabitants, as other Cities and Towns in *France* have suffered, where these cruel Experiments have been tried.

IV. Because had such Part of the Act as, we think should be repealed, been accordingly repealed, there would still have remained in it a general Clause, which gives the Crown all Powers necessary to prevent the spreading of Infection, and consequently these very Powers, among the rest, if they shall be found necessary; and therefore there is no Need, we conceive, to have them expressly granted in the same Act of Parliament, which seems not only to warrant, but in a particular Manner to prescribe and direct the Use of them.

V. Because the great Argument urged for continuing these Powers specified in the Question, that they would probably never be put in Execution in the Cases objected to, seems to us a clear Reason why they should not be continued; for we cannot imagine why they should stand enacted, unless they are intended to be executed, or of what Use it will be to the Publick to keep the Minds of the People perpetually alarmed with those Apprehensions, under which they now labour, as appears by the Petition from the City of *London* lately rejected: It may be an Instance of our great Confidence in his Majesty's Wisdom and Goodness, when we trust him with such Powers, unknown to the Constitution; but, we think, it ill becomes us to repose such Trust, when it tends, in our Opinion, rather to render him terrible than amiable to his Subjects, and when the only Advantage he can, as we conceive, draw from the Trust reposed in him is, not to make Use of it.

*W. Ebor', North and Grey, Weston, Fra. Roffen', Coningsby, St John de Bleisoe, Gower, Strafford, Boyle, Fr. Cestriens', Bristol, Trevor, Uxbridge, Aylesford, Aberdeen, Cowper, Bingley, Guildford, Foley, Bathurst.*

Anno 8. Geo. I.  
1721.

Farther Debate  
on the Plague.

Farther Debate  
on the Mutiny-  
Bill.

Ld Trevor.

E. of Sunderland.

Ld North and  
Grey.

Ld Townshend.

Ld Torrington.

E. Coningsby.

Ld Trevor.

Ld. North and  
Grey.

Ld Harcourt.

Ld Carteret.

Debate on the E.  
of Strafford's  
Motion for Sir  
George Byng's  
Instructions to  
be laid before the  
House.

Ld North and  
Grey.

Aep of York.

E. of Aylesford.

E. Cowper.

Ld Guildford.

Ld Trevor.

Ld Bathurst.

E. of Sunderland.

D. of Wharton.

Ld Carteret.

Then a Debate arose upon the Question, whether Nurses and Physicians, appointed by the Government, should be forced on Persons remov'd to Pest-Houses, or whether they should be allowed their own Physicians and Attendants? But the Consideration of that \* Affair was put off.

*December 13.* The Lords, in a grand Committee, went again upon the Bill for punishing Mutiny and Desertion; and the Lord *Trevor* insisted, That the Articles of War should be inserted in the Body of the Bill. He was answer'd by the Earl of *Sunderland*, to whom the Lord *North and Grey* having reply'd, the Lord Viscount *Townshend* spoke for the Bill, and was seconded by the Lord *Torrington*. After some other Speeches between the Earl *Coningsby*, the Lords *Trevor* and *North and Grey*, on the one Side; and the Lords *Harcourt* and *Carteret* on the other, the Bill was agreed to.

*December 19.* The House went again upon the King's Speech at the opening of the Session, and took into Consideration that Part of it relating to the Treaty with *Spain*. The Earl of *Strafford* suggested, 'That as the War with *Spain* was undertaken without Necessity, or a just Provocation, so the Peace was concluded without any Benefit or Advantage: That, contrary to the Law of Nations, the *Spanish* Fleet was fallen upon without any Declaration of War, and even while a *British* Minister and Secretary of State was amicably treating at *Madrid*; so that the *Spaniards* might think themselves secure from any Hostilities: And as the Manner of beginning the War with *Spain* did not appear justifiable, neither could the War itself be easily reconcil'd with sound Politicks, since it was an Interruption to one of the most valuable Branches of our Trade; and at a Time when the Nation groan'd under the Pressure of heavy Debts, occasion'd by a former long expensive War. Concluding with a Motion for an Address to his Majesty, that he would be pleas'd to cause the Instructions that were given to Sir *George Byng*, in relation to the Action against the *Spanish* Fleet in the *Mediterranean*, to be laid before the House. He was seconded by Lord *North and Grey*, the Archbishop of *York*, the Earls of *Aylesford* and *Cowper*, the Lords *Guildford*, *Trevor*, and *Bathurst*. They were answered by the Earl of *Sunderland*, the Duke of *Wharton*, and Lord *Carteret*. And the Question being put upon the said Motion, it passed in the Negative by 67 Voices against 24.

*Dissentient'*

I. Because not finding any Instance, on Search of the Journals, we believe there is none, wherein a Motion for Admirals

\* Though the Repeal of the obnoxious Clauses in the *Quarentine Act* was so much oppos'd, yet an Act was pass'd in this very Session for that Purpose.

rais Instructions to be laid before the House has been denied; Anno 8. Geo. I. but, on the contrary, there are many Precedents of Instructions of a like Nature, and in stronger Cases, as we conceive, addressed for by the House, and several in Point, for Instructions given to Admirals, particularly to Sir George Roke and Sir Cloudesley Shovel; nor does it seem, to us, at all material, whether the Conduct of such Admirals had or had not been blamed before such Instructions were asked for, since the Sight of Instructions may be previously and absolutely necessary to inform the House, whether their Conduct be blameable or not.

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II. Because we think it highly reasonable, that those Instructions should be laid before this House, upon which the Action of the *British* against the *Spanish* Fleet in the *Mediterranean* was founded, without any previous Declaration of War, and even whilst a *British* Minister, a Secretary of State, was amicably treating at *Madrid*, which Court might justly conclude itself secure from any hostile Attack during the Continuance of such Negotiations.

III. Because 'till we have a Sight of those Instructions, and are able to judge of the Reasons on which they are founded, the War with *Spain*, in which that Action of our Fleet involved us, does not appear to us so justifiable as we could wish, and yet was plainly prejudicial to the Nation in sundry Respects; for it occasioned an entire Interruption of our most valuable Commerce with *Spain*, at a Time when *Great-Britain* needed all the Advantages of Peace to extricate itself from that heavy National Debt it lay under; and as it deprived us of the Friendship of *Spain* (not easily to be retrieved) so it gave our Rivals in Trade an Opportunity to insinuate themselves into their Affections; and we conceive, that to that War alone is owing the strict Union there is at present between the Crowns of *France* and *Spain*, which it was the Interest of *Great-Britain* to have kept always divided; an Union which in its Consequences may prove fatal to these Kingdoms.

Nor does it appear that *Great-Britain* has had any Fruits from this War, beyond its being restored to the same Trade we had with *Spain* before we began it.

*W. Ebor', Aberdeen, Aylesford, Strafford, Bristol, Foley, North and Grey, Bathurst, Fran. Cestriens', Compton, Guilford, Scarsdale, St John de Bleitho, Trevor, Boyle, Weston, Cowper, Uxbridge, Gower.*

The same Day the Duke of *Wharton* took Notice, 'That D. of Wharton. the Debates on the King's Speech had already taken up much Time to little Purpose, and therefore mov'd, that an

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C c 2

End.

Anno 8. Geo. I. 1721. End might be put to the Matter ; which, after some Opposition, was agreed to without dividing. However, Lord North and Grey mov'd, that the House would inquire what was become of the Ships that were taken from the Spaniards in the late War ; but it being late, the Consideration of that Affair was put off.

Ld North and Grey's Motion for an Account of the Disposal of the Spanish Ships.

On that Day the Lord North and Grey mov'd, That an Address be made to his Majesty, that he would be pleased to order an Account to be laid before the House, how the Ships taken from the Spaniards were disposed of : He was seconded by the Earl of Aylesford ; and the Question being put thereupon, it was carried without any Division.

Protest against passing the Mutiny-Bill.

The same Day the Bill, *For punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters*, was read the third Time ; and the Question being put, whether the Bill with the Amendment should pass ? It was resolved in the Affirmative.

#### *Dissentient's,*

I. Because we have heard no Arguments to convince us, that there is any Necessity for a greater Number of Troops being kept on Foot at this Time, than there was after the Peace of *Ryswick* or the Peace of *Utrecht* ; for as to the Argument urged from the present Disaffection of the People, we are fully persuaded, that the keeping up so great an Army is much more likely to increase than lessen such Disaffection.

II. Because this Precedent is likely to be followed in all subsequent Times, there being no Probability that a Conjunction can happen, when there will be less apparent Reason for keeping up a great Number of Forces, than at this Time of a general Tranquility.

III. Because, we conceive, there are several Clauses in this Bill, which tend to overthrow the Civil-Power in this Kingdom, and turn it into a Military Government ; and we apprehend it to be our Duty to take Care, that so dangerous a Precedent may not be made for any future Time without an evident Necessity ; and it is plain there is no such Necessity for erecting this Military-Power within this Kingdom in Time of Peace, because the Army was well governed without it in the two former Reigns.

IV. That allowing such a Number of Troops were necessary, yet there is no Reason can be alledged, as we apprehend, that they should be constituted in this expensive Manner, which raises the Charge upon the Nation to about double what it was, in Time of Peace, in the two former Reigns ; and we must, with great Concern, assert, that the Publick

Publick is much less able to bear such an Excess at the pre- Anno 8. Geo. I.  
sent, than at any former Time. 1721-22.

*W. Ebor', Bristol, Strafford, Bathurst, Uxbridge, Aberdeen,  
Guilford, Scarfsdale, Tadcaster (a), F. Roffen', North and  
Grey, Foley, Boyle (b), Trever, Fran. Coftrien'.*

January 9. The Lords being met pursuant to Adjourn- Debate on the  
ment, a Bill from the Commons, *For granting the People Quakers Bill.*  
*call'd Quakers, such Form of Affirmation or Declaration,*  
*as may remove the Difficulties which many of them lie under,*  
was read a first Time; and a Motion being made for a se-  
cond Reading thereof, the same was oppos'd by Lord North Ld North and  
and Grey; he was seconded by the Bishop of Rochester, who Grey.  
said, 'He did not know why such a distinguishing Indul- Bp of Rochester.  
gence, as was intended by this Bill, should be allowed to a  
Set of People, who were hardly Christians.' To this the  
Earl of *Ilay* answered, 'That he wonder'd that Pre- E. of Ilay.  
late should call in Question, whether the Quakers were  
Christians, since they were so, at least by Act of Parlia-  
ment, being included in the Toleration-Act, under the ge-  
neral Denomination of *Protestant Dissenters*.' The Bishop  
reply'd, 'It was against the standing Orders of that august  
Assembly to make any personal Reflections; and he thought  
it a much greater Indecency to make a Jest of any Thing  
that was sacred; and that the calling the Quakers Christians  
by Act of Parliament, was a Sort of Side-Wind Reflection  
upon Christianity itself.' That however, he would let that  
pass, and reserve to another Opportunity what he had to offer  
against the Bill. On the other Hand, the Earl of *Sunderland*,  
and the Lords *Carteret* and *Bathurst* having spoke for a se- E. of Sunderland.  
cond Reading, the same was order'd for the *Monday* following. Ld Carteret.  
Ld Bathurst.

On the 11th of *January*, a Debate arose concerning the  
building of Ships of War for Foreigners, which was open'd Debate relating  
by the Earl *Coningsby*, and seconded by Lord *North* and to the building of  
*Grey*, and the Earl *Cowper*. Their Lordships suggested, Ships for Foreign-  
ers.  
'That the Practice of building Ships for Foreigners may be  
attended with very ill and dangerous Consequences; for as  
such Foreigners, tho' at present in Amity with us, may yet, E. Coningsby.  
one Time or other, become our Enemies, they will, in such Ld North and  
a Case, make Use of those very Ships to fight against our- Grey.  
selves: And that besides this general Consideration, the pre- E. Cowper.  
sent great Scarcity of Timber in *England*, made such a  
Practice so much the more unjustifiable, especially, if it was  
considered what great Number of Ships had lately been  
built for the *French*, some of which were Sixty or Seventy  
Gun Ships.' To this the Lords *Carteret* and *Townshend* Ld Carteret.  
answered, 'That they knew of no Law in Being to hinder Ld Townshend.  
any

(a) Earl of Thomond (b) Earl of Orrery: Both of Ireland.

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any Ship-Carpenter from working for any one that would employ him; That the *French*, tho' now in Amity, may, indeed, be one Day our Enemies; but yet, if they build not here such Ships as they have Occasion for, they might get them built in *Holland* or *Hamburg*: And their Lordships were of Opinion, it was better for us to get their Money than our Neighbours: That indeed if we could hinder the *French* from building Ships at all, it would be prudent to do it, but since they can have them in other Places, our prohibiting them to buy them here, would rather be detrimental than advantageous to us.' The Judges, whose Opinions the House desired to have, not being all come, the further Consideration of that Affair was put off till the next Day.

On the 12th of *January*, the Judges that were in Town being present, the Earl *Cowper* set forth the pernicious Practice which, for some Time, had been carried on, of building Ships of Force for the *French*, not only in the River *Thames*, but also at *Bristol*, and was seconded by the Lord *North and Grey*. They were answered by the Lord *Townshend*, who alledged, 'That there was no Law against it that he knew of.' The Earl *Cowper* thereupon moved, That the Judges might be asked their Opinions as to that Point; and being seconded by the Lord *Coningsby*, the Question was put to them accordingly. Thereupon the Lord Chief Justice *Pratt*, in the Name of all the Judges present, except Baron *Montague*, who desired farther Time to consider of it before he gave his Opinion, declared, 'That they knew of no Law, whereby the King was empowered to hinder any of his Subjects from building Ships for any one that would employ them, whether Natives or Foreigners.' Hereupon the Earl *Cowper* said, 'That if there was no such Law, it was high Time there should be one, to put a Stop to such a pernicious Practice for the future; and therefore moved that the Judges be order'd to bring in a Bill for that Purpose.' This Motion being opposed by the Earl of *Sunderland*, the Earl *Cowper* reply'd to him, which occasioned a Debate between the Lord *Townshend*, the Earl of *Sunderland*, the Duke of *Argyle*, and the Lord *Carteret* on the one Side; and the Lord *Bathurst*, the Earl *Coningsby*, and the Lord *North and Grey* on the other Side: But at last the Court-Party dropt their Opposition to the Earl *Cowper*'s Motion, provided this Clause (*except licensed by his Majesty*) be added to the said Bill, which was ordered to be brought in: But it did not pass into a Law.

Farther Debate  
on the Navy-  
Debt.

E. Cowper,

The next Day, the Lords in a Grand Committee resumed the Consideration of the great Debt of the Navy. The Earl *Cowper* moved, That the Papers laid before the House, by the Commissioners of the Navy, relating to the Number

of

of Ships employ'd in the *Baltick* and *Mediterranean*, might be read; which being done accordingly, his Lordship observ'd, 'That one great Cause of the Navy-Debt was, the not discharging the Seamen belonging to his Majesty's Ships when they came home, but keeping them in Sea-Pay all Winter.' To this Lord *Torrington* answer'd, 'That tho' Seamen in the Winter, might be said to be of no Use, yet the keeping them in Pay was an Expence, absolutely necessary; for if they were discharged, the Government would be to seek for them in the Spring, when they had Occasion for them, since Seamen cannot live without Business; and if not employ'd in the Royal Navy, they are forc'd to hire themselves either to the Merchants, or into Foreign Service.'

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Motion to resolve, That the not paying off the Seamen in the Winter, was one Cause of it.

Ld Torrington:

The House being resum'd, a Motion was made, That the not paying off his Majesty's Ships when they came home from their several Voyages, according to the ancient Usage of the Navy, but continuing them in Sea-Pay during the Winter, till they went out again, has been one great Cause of contracting so large a Navy-Debt. And a Question being stated thereupon, after Debate, the previous Question was put, whether the said Question shall be now put? It was resolv'd in the Negative.

### *Difficulties*

I. Because, we conceive, the main Question ought to have been put, since the Practice complain'd of in it having been from the Year 1690 very frequently represented against to the Admiralty and the Treasury, by the Commissioners of the Navy (the proper Officers to give Advice in such Matters, and who then were Men of great Experience, Ability and Probity) for being contrary to the ancient Usage of the Navy, giving great Disgust to the Seamen, and causing an unnecessary Expence of the Publick Money; we thought it highly reasonable to endeavour that a Stop should be put to this Method, which was attended with so many fatal Consequences; and we cannot but think, the putting and voting the main Question in the Affirmative would have greatly conduced to that End.

II. Because it did not appear necessary, at a Time when so few Men were either granted or demanded for the Service of any one Year, that the Seamen should be treated with so much Severity, as not to be paid off according to the ancient Usage of the Navy, but kept in floating Prisons, as the said Commissioners of the Navy very well express it; especially since we find, that during the late Wars, when forty thousand Men a Year were granted, this was truly thought, by the said Commissioners of the Navy, a Way rather to provoke the Seamen to desert, than encourage them.



Anno 8. Geo. 1. them to come into or continue in the Service ; and to be the principal, if not the only Reason, why it is become so difficult to get them again when wanted.

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III. We thought at this Juncture, when his Majesty had so lately, in a most gracious Speech from the Throne, signified his having so happily established Peace throughout *Europe*, it would be proper (if ever) to use our best Endeavours that the Seamen might partake of the Benefit of our mild and free Government, and not be liable to greater Hardships than any of their Fellow-Subjects, as we think they would be, if this Practice be suffered to continue.

IV. Because such Methods ought to be used as will most contribute to procure the Affections of the Seamen to the Service, which, we think, the ancient Usage of the Navy will in this Case best effect ; by which they will have the Satisfaction to spend their Money within the Kingdom, for the Benefit and Support of their Families, as formerly, when the Ships were paid off at their Return home from their several Voyages ; and will, we hope, prevent their absconding from, and deserting the Service, and engage them chearfully to enter into it whenever there shall be Occasion ; whereas according to the late Practice, by the Opinion of the said Commissioners of the Navy, the Difficulty of getting them in the Spring chiefly rises from keeping them all Winter, and yet the Difficulty of getting them again is assigned as the only Reason for keeping them in Pay during the Winter, although it amounts to an intolerable Charge upon the Kingdom ; it appearing by one of the Papers now upon the Table, that keeping them in Pay all the Winter comes to near five Times as much as raising them again in the Spring.

V. We cannot but think it a very unusual Way of Arguing in a House of Parliament, that a Question ought not to be put, because it is generally admitted to be true ; though at the same Time there may be too much Reason to believe, that the Practice complained of will not be altered without the Interposition of Parliament.

VI. We cannot conceive the Treaty with *Sweden* could make it necessary, as was alledged, to keep the Men in Pay all the Winter ; since it appears by the Papers upon the Table, that very little or no Time would have been lost, if the old Method of the Navy of raising them in the Spring had been followed, by which much Money would have been saved to the Publick ; especially since their so early Arrival there did neither prevent landing the Czar's Troops in *Sweden*, when and where they pleased, nor by any Action at Sea contribute to weaken his naval Strength.

Lastly,

*Lastly*, We take it to be very clear, that if any Necessity or sufficient Reason was foreseen at any Time for the dispensing with this Rule of the Navy, it ought not to have been done without his Majesty's Consent in Council; it being, as we conceive, a fundamental Maxim in the Government of the Navy, and a most essential Part of his Majesty's Prerogative; that no Rule or Establishment in the Navy, whether written or unwritten, and customary, ought to be, or can regularly be abrogated, altered, or dispensed with, but by his Majesty's Consent in Council, especially in so weighty a Point as spending the publick Treasure so much faster than it need have been in the Proportion abovementioned; and therefore we thought it expedient that the main Question should have been put and voted in the Affirmative, that this great and useful Prerogative of the Crown might, by censuring what we take to be a Breach thereof (tho' with the Temper recommended from the Throne) have been the better preserv'd for the future.

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*W. Ebor, Strafford, Masham, Uxbridge, Compton, North and Grey, Cowper, Trevor, Bristol, Guilford, Bathurst, Gower, Aberdeen.*

On the 15th of *January*, the Lords read the *Quaker's* Debate on a Bill the second Time, and a Motion being made, and the Question put, that the said Bill be committed, the same was oppos'd by the Bishop of *Rochester*, who, according to his former Assertion, endeavour'd to prove, that the *Quakers* were no Christians. His Lordship was seconded by the Earl of *Strafford*, the Lord *North and Grey*, Earl *Coningsby*, and the Archbishop of *York*; but they were answer'd by the Earl of *Sunderland*, the Duke of *Argyle*, the Bishop of *Peterborough*, the Earl of *Ilay*, the Earl of *Macclesfield*; \* and the Question being put for committing the Bill, it was carried in the Affirmative by 64 Voices against 14.

*January 17.* The Arch-bishop of *York* presented to the House a Petition against the *Quaker's* Bill, from some of the *London* Clergy, setting forth, ' That the said Bill, if pass'd into a Law may, in its Consequences, nearly affect the Property of the Subject in general, and in a more especial Manner endanger the Legal Maintenance of the Clergy by Tythes; in as much as the *Quakers* pretend to deny the Payment of Tythes upon a Principle of Conscience, and therefore as the Petitioners apprehend, may be under strong Inducements to ease their Consciences in that Respect by violating them in another, when their simple Affirmation on Behalf of Friends of the same Perswasion, shall pass in all Courts of Justice for legal Evidence.

1722.

D d

' That

\* Lord High Chancellor.

Anno 8. Geo. I.

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‘ That however, the Injuries that the Petitioners in their private Rights, may possibly suffer, are, as they ought to be, of small Account with them, in Comparison of the Mischiefs which may redound to Society from the Indulgence intended, as it seems to imply, that Justice may be duly administred, and Government supported without the Intervention of any solemn Appeal to God, as a Witness of the Truth of what is said, by all Persons, in all Cases of great Importance to the common Welfare; whereas the Petitioners are firmly perswaded, that an Oath was instituted by God himself as the surest Bond of Fidelity among Men, and hath been esteem’d, and found to be so by the Wisdom and Experience of all Nations in all Ages.

‘ That what chiefly moves the Petitioners is, their serious Concern, lest the Minds of good Men should be grieved and wounded, and the Enemies of Christianity triumph, when they shall see such Condescensions made by a Christian Legislature to a Set of Men, who renounce the divine Institutions of Christ; particularly that by which the faithful are initiated into his Religion, and denominat- ed Christians, and who cannot, on this Account, according to the uniform Judgment, and Practice of the Catholic Church, be deem’d worthy of that sacred Name.

‘ That the Petitioners moreover crave Leave to represent, that upon the best Information they can get, the Instances wherein any Quaker hath refused the solemn Affirmation, prescribed by an Act of the Seventh and Eighth Year of K. William III. have from the passing that Act to this Day been exceeding rare; so that there might be Ground to hope, that the continued Use of the said solemn Affirmation, would, by Degrees have entirely cured that People of all those unreasonable Prejudices against an Oath which the Favour designed them by this Bill may tend to strengthen and confirm.

‘ That the Petitioners humbly leave it to their Lordships wise Deliberations, whether such an extraordinary Indulgence, granted to a People already, as is conceived, too numerous, may not contribute to multiply their Sect, and tempt Persons to profess themselves Quakers, in order to be exempted from the Obligation of Oaths, and to stand upon a Foot of Privilege not allowed to the best Christians and Subjects in the Kingdom.’

Debate on the  
said Petition.  
ABp of York.  
Ld North and  
Grey.

E. of Strafford.

Bp of Rochester.

E. Coningsby.

Lord Trevor.

Earl Cowper.

Ld Bathurst.

The Archbishop of York spoke in Behalf of this Petition, and moved, that it be received and read: The Lord North and Grey, the Earl of Strafford, the Bishop of Rochester, the Earl Coningsby, Lord Trevor, Earl Cowper, and Lord Bathurst, supported the Archbishop of York’s Motion; but the

same

s warmly opposed by the Lord *Townshend*, Earl of Anno 8. Geo. I. *gb* (a), Earl of *Sunderland*, Lord *Carteret* (b), Duke <sup>1721-22.</sup> *e*, Earl of *Illy*, and the Bishop of *Peterborough*; and tion being at last put thereupon, it was carried in Ld Townshend. E. of Scarbrough. E. of Sunderland. Ld Carteret. Duke of Argyle. Earl of Illy. Bp of Peterborough. Bp of Sarum.  
 ative : All the Bishops present, except the two Arch- the Bishops of *Oxford* (c), *Litchfield* and *Coven- and Rochester*, being against the Petition. In this the Bishop of *Sarum* (e) proposed, that the Petition- ists have Leave to withdraw their Petition; but this osed by Lord *Sunderland*, who said, ' That a Com- ught to be appointed to inquire into the Authors and rs of it; for he look'd upon it to be no better than ' The Lord *Townshend* took Notice of the irregular Ld Townshend.  
 which the said Petition was presented, for if it was n of the *London* Clergy, it ought to be offer'd either ithop of that Diocese, or the Archbishop of *Canter-* bury, whereas it was presented by the Archbishop of *York*, who was Metropolitan of another Province. Then the Que- stion being put, That the said Petition be rejected, it was resolved in the Affirmative, by 60 Voices against 24.  
 Whereupon the following Protest was enter'd.

### *Dissentient*

I. Because the Right of petitioning in a legal Manner to legal Purposes does, we apprehend, appertain by Law and Protest on re- Ufage to the free People of this Realm, and is as essential lecting it. to the Subject, acting within his due Bounds, as the Liberty of Debate is to the Constitution of Parliament; and this Right, as it extends to the petitioning even for the Repeal of Acts now in Force, by which the People think themselves aggrieved, so it justifies them yet more in representing their humble Sense of any new Law, while it is under the Consi- deration of Parliament; nor are the Clergy, we presume, less privileged in Relation to the Exercise of this Right, than any other of his Majesty's Subjects: On the contrary, we believe them as worthy of enjoying it, and as capable of exerting it to wise and good Ends, as any Rank of private Men in the Kingdom.

II. Because the Petition so rejected is, in our Opinion, proper and inoffensive, both as to the Matter and the Man- ner of it; since it partly relates to the peculiar Rights of the Clergy in Point of Tythes, and partly expresses their Fears, as we conceive not altogether groundless, lest the Sect of Quakers, already too numerous, should by this new In- dulgence be greatly multiplied, and lest the Honour of Reli- gion should any ways suffer, and the Foundations of Govern- 1722. D d z ment

(a) Colonel of the second Regiment of Foot Guards.

(b) Secretary of State.

(c) Dr John Potter. (d) Dr John Hough. e. Dr Richard Willit.

Anno 8. Geo. I.  
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ment be shaken by what is intended, both which it is the particular Duty of their Function to uphold and secure : We are not therefore apprehensive, that it misbecame their Characters to interpose in any of these important Points, and the Way in which they have done it must seem to us free from Exceptions, 'till some Passage in their Petition is pitched upon as obnoxious and censured by the House, which as yet hath not been done.

III. Because the Petition suggests a particular Grievance, under which the Clergy will suffer, by this Act, more than any other Order of Men ; which, as it had never been denied in the Debates on the Bill, so was allowed to deserve the Consideration of the House ; and therefore had there been any other Part of their Petition less unexceptionable (as we apprehend there is not) yet we do not think it was reasonable to lay aside the Whole on that Account, and reject what was acknowledged fit to be considered, for the Sake of what was thought improper to be offered.

IV. Because the Clergy of *London* are not, in general, so liberally provided for, but that they have Reason to be watchful in relation to any Step that may unwarily be taken towards diminishing their Maintenance, which we look upon as not duly proportioned to their Labours in populous Parishes, and to the various Employments given them by Infidels and Hereticks, Papists, and divers Sects of Men dissenting from the Church established by Law, with which this Metropolis is known to abound ; And as their Situation gives them near Opportunities of observing and knowing what may be stirred in Parliament, to the Prejudice of their Order, so we cannot but think, that it becomes them to make Use of that Advantage in Behalf of their distant Brethren, as often as Need shall require, especially at a Time when the Representatives of the Clergy are not attending in Convocation, and in a Readiness to exert their known Right of applying to the Legislature on all such Occasions.

V. Because the *London* Clergy, from whence the Petition came, are, in our Opinion, and have been always esteem'd of great Consideration, with respect to their extensive Influence, and Ability to be serviceable to the State in important Conjunctions ; from this Body of Men have proceeded many of the most eminent Lights of the Church and Ornaments of the Bishops Bench, especially since the Revolution ; and, in the Reign preceeding it, their never to be forgotten Labours put a Stop to the Torrent of Popery, then ready to overflow us ; on which, and many other Accounts, we cannot but wish that the Applications, at any Time made to this House by the City-Clergy, might be received with Regard and Tenderness, and a more than ordinary Indulgence allow-  
ed

ed them, at a Time when so great Favours are about to be bestowed on the professed Oppugners of their Function and Maintenance.

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1721-22.

VI. Because, by Experience, we find, that the treating in this Manner a Petition from any great and considerable Body of Men, is not the best Way to allay the Jealousies, and extinguish the Uneasiness that occasioned it; a very contrary Effect having followed (according to the best of our Observation) from the rejecting a Petition lately offered by the City of London: And the oftner such Instances are repeated, the more, we fear, the Disaffection of the People will encrease, who, thinking themselves under Hardships, from which they desire to be relieved, may look upon it, as a new and yet greater Hardship not to be heard; and though the modest and dutiful Demeanor of the Clergy should no Ways contribute to these Consequences, yet we know not how far this may be the Case with respect to their Flocks, to whom their Persons and Characters are dear, and who may therefore be induced, by the Reverence they bear to their Pastors, to express as much Concern on their Account, as they would do on their own: For which Reason it was our earnest Desire, that this second and, in our Opinion, dangerous Experiment might not have been made \*.

*W. Ebor\*, Weston, Uxbridge, Scarfsdale, Compton, Bristol, Coningsby, Strafford, Foley, Aberdeen, Gower, Trevor, Bingley, St John de Bletsoe, Guilsford, Cowper, North and Grey, Bathurst, Montjoy, Fran. Roffen.\**

Jan. 18. The Lords went into a Committee on the Farther Debate Quaker's Bill; and after the reading of the first Clause, the on the Quaker's Archbishop of Canterbury moved, 'That the Quaker's Affirmation might not be admitted in Courts of Judicature, but among themselves'; and the Archbishop of York moved for a Clause, 'That the Quakers Affirmation should not go in any Suit at Law for Tythes'; but the Question being put thereupon, was carried in the Negative, by 52 Voices against 21. The next Day, the Bill was read the 3d Time, It passes the and the Question being put, That the Bill do pass, it was resolved in the Affirmative. House.

*Dissentient\**

*W. Cant. Jo. Oxon.*

I. Because the Privileges allowed by this Bill to the Quakers are without Example, and no ways proportioned to the Steps formerly taken towards a gradual Indulgence of them; for whereas they have been hitherto under the real Obligation

Protest against it.

\* This Protest was expunged by Order of the 5th of March following.

Anno 8. Geo. L. tion of an Oath, though dispensed with as to some Formalities with respect to the Manner of wording and taking it, they are now altogether released both from the Form and Substance of an Oath, and admitted to profess Fidelity and give Testimony upon their simple Affirmation; nor are these great Privileges indulged to them, as the less were, from time to time, and by degrees, but are at once made perpetual.

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II. Because we look upon the *Quakers*, who reject the two Sacraments of *Christ*, and are, as far as they so do, unworthy of the Name of Christians, to be on that Account unworthy also of receiving such distinguishing Marks of Favour.

III. Because the *Quakers*, as they renounce the Institutions of *Christ*, so have they not given even the Evidence by Law required of their Belief of his Divinity, it no way appearing to us (nor do we believe it can be made appear) that ever since they were first indulged, 1. *W. & M.* one *Quaker* in an hundred hath subscribed the Profession of Christian Belief directed by that Act; nor could we, upon a Motion made in the House, prevail that they should even now be obliged, by such previous Subscription, to intitle themselves to the new and extraordinary Favours designed them; the Consequence of which must, in our Opinion, be, that they will encourage themselves yet farther in their Aversion to subscribe that Profession of Christian Belief, which they seem more to decline than even the taking of an Oath, since great Numbers of them have sworn, tho' very few have subscribed that Profession; nor are we without Apprehensions, that it may reflect some Dishonour on the Christian Faith, if the Evidence given by such Persons on their bare Word, shall, by Law, be judged of equal Credit with the solemn Oath of an acknowledged Christian and sincere Member of the establish'd Communion.

IV. Because we look upon it as highly unreasonable, that in a Kingdom where the Nobles, the Clergy and Commons are obliged to swear Fealty to the Crown, and even the Sovereign himself takes an Oath at his Coronation, a particular Sect of Men, who refuse to serve the State either as Civil Officers or Soldiers, should be entirely released from that Obligation; since 'tis natural to expect that Persons thus indulged, as to the Manner and Measure of performing their Allegiance, should, by degrees, be induced totally to withdraw it, till they become as bad Subjects as Christians.

V. Because, tho' such extraordinary Privileges are allowed to the Sect of *Quakers* by this Bill, yet there is no Mark or Test prescribed by it, or by any other Act, by which it may

may certainly be known who are *Quakers*, and consequently who are or are not intitled to those Privileges; from whence this Inconvenience may arise, that many not really *Quakers* may yet shelter themselves under the Cover of that Name, on purpose to be released from the Obligation of Oaths; it not being, we conceive, in the Power of the Magistrate, as this Bill stands, to oblige any Person to take an Oath, who at the Time of tendering it shall profess himself a *Quaker*; so that the Concessions now made to that Sect may prove a great Inlet to Hypocrisy and Falshood, and will naturally tend towards increasing their Numbers, which we rather wish may be every Day diminished.

Anno 8. Geo. 1.

1721-22.

VI. Because we do not apprehend, that the *Quakers*, as a Sect, are really under such Scruples in point of an Oath, that it is necessary to ease them by such an Act; few of them having for five and twenty Years past, since their solemn Affirmation (equivalent to an Oath) was enacted, ever refused to comply with it; and should this have now and then happen'd, yet when the great Body of any sort of Secularies are at Ease in their Consciences, the Scruples of a few, we think, ought not to be regarded; especially if continuing the Law now in Force will probably extinguish those Scruples, and the Repeal of it will certainly give new Life and Strength to them.

VII. Because the Security of the Subjects Property, which depends upon Testimony, seems to us to be lessen'd by this Act; the Reverence of an Oath having been always observed to operate farther towards the Discovery of Truth, than any other less solemn Form of Asseveration; nor can the *Quakers* be excepted in this Case, whose awful Apprehensions of an Oath appear from their earnest Endeavours to decline it; and therefore, where the Payment of Tythes, by them held to be sinful, is concerned, they will have strong Inducements to disguise the Truth in what they simply affirm, rather than wound their Consciences and Credit by contributing towards the Support of such an anti-christian Payment: In other Cases of Property, their Interest only will clash with their Veracity; but the double Motive of Interest and Conscience will influence them with respect to the Clergy, whose Calling and Maintenance they equally condemn.

VIII. Because the Inducement mentioned in the Bill towards granting the *Quakers* those Favours, that they are well affected to the Government (a Position of which we have some doubt) might, we apprehend, be improved into a Reason for granting the like Favours to *Deists*, *Arians*, *Jews*, and even to *Heathens* themselves; all of which may possibly



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sibly be, as some of them certainly are, Friends to the Government: However, their Friendship, we presume, would be cultivated at too great an Expence, if for the sake of it, any thing should be done by the Legislature which might weaken the Security of all Governments, an Oath; and by that Means do more Mischief to the State in one respect, than it brought Advantage in another: And we the rather thus choose to reason, because an Argument was urged in the Debate, and no ways disallowed, That if *Heatbens* themselves were equally of Use to the State, as the *Quakers* are, they ought also, equally by Law, to be indulged; whereas our firm Persuasion is, that as no Man should be persecuted for his Opinions in Religion, so neither should any Man, who is known to avow Principles destructive of Christianity, however useful he may otherwise be to the State, be encouraged by a Law, made purposely in his Favour, to continue in those Principles.

*W. Ebor', Fra. Roffen', Compton, Montjoy, Strafford, Trevor, Gower, Salisbury, Aberdeen, St. John de Bletso, Fran. Cestriens'.*

Debate on the Disposal of the Spanish Ships.

Ld North and Grey.  
E. Cowper.

E. of Strafford.  
E. Coningsby.  
Bp of Rochester.  
E. of Ilay.  
E. of Sunderland.  
D. of Wharton.  
Ld Townshend.

*January 22.* The Lord North and Grey called for the Papers, which, pursuant to an Address made before *Christmas* last, [See p. 204.] had been laid before the House, giving an Account how the Ships taken from the *Spaniards* had been disposed of? It appearing thereby, that some of those Ships were still at *Port-Mahon*, and others had been broke up as useless, the Earl Cowper found fault, that they were not either given to the Captors, or deliver'd again to the King of *Spain*. His Lordship was seconded by the Earl of *Strafford*, Lord North and Grey, Earl Coningsby, and the Bishop of *Rochester*; but being oppos'd by the Earl of *Sunderland*, the Earl of *Ilay*, Duke of *Wharton*, and Lord *Townshend*, the Affair was drop'd without farther Debate.

Motion that the Treaties, &c. relating to the British Squadron being sent to the Baltic, be called for.

*Jan. 25.* The Order of the Day, for the House to be in a Committee, to take into farther Consideration the Causes of contracting so large a Navy-Debt; and the Instruction to the said Committee, that they do, in the first Place, consider of the Occasion of that Part of the said Debt, which arises from having employed more Men in the Sea-Service in any Year, than were provided for by Parliament for such Year, and from the not paying off all the Seamen at Winter, being call'd for, a Motion was made, 'That authentick Copies of the several Treaties, Instructions, and Orders, relating to the *British* Squadrons being sent into the *Baltick*, for several Years last past, be laid before the House, that the true Occasion

Occasion of that Part of the Navy-Debt, which the Committee is instructed to consider in the first Place, may better appear, as also, that the Act of Settlement has not been infringed by those *Northern Expeditions*. Hereupon a Debate ensued, wherein Lord *Bathurst* alledg'd, ' That the immense Intrease of the National Debt was owing to the great Number of Ships that had been employ'd in the *Baltick* and *Mediterranean*; the great Numbers of Seamen in those Ships, and the keeping those Seamen in Pay during the Winter Season; concluding, that, in his Opinion, those extraordinary Expences were not necessary for the Service of *Great Britain*.' His Lordship was supported by the Lord *North and Grey*, the Earl *Cowper*, the Earl of *Strafford*, the Bishop of *Rochester*, the Lord *Trevor*, and the Earl *Coningsby*: But they were oppos'd by the Earl of *Sunderland* (a), Lord *Townshend* (b), Duke of *Argyle* (c), Earl of *Ilay*, and the Duke of *Newcastle* (d); so that the Question being put, That the Act of Settlement was broke into by sending a Squadron into the *Baltick*, it was resolv'd in the Negative, by 60 against 23.

Anno 8. Geo. 1.  
1721-22.  
Ld Bathurst.  
Debate thereon

Ld North and Grey.  
E. Cowper.  
E. of Strafford.  
Bp of Rochester.  
Ld Trevor.  
E. Coningsby.  
E. of Sunderland.  
Ld Townshend.  
D. of Argyle.  
E. of Ilay.  
D. of Newcastle.

### *Dissentient*

I. Because it being now admitted by the House, in the Protest on a Negative being put upon it. Instruction given to the Committee, that the Navy-Debt was increased by employing more Men in the Sea-Service yearly than were provided for by Parliament, and by the not paying them off in the Winter; the Intention of the House in that Instruction must, in our Opinion, manifestly be to direct the Committee to inquire into the true Occasion and Reasonableness of those Services, by which the Navy-Debt was increased; and that End could not, we think, be any ways attained without a Sight of those Treaties, Instructions and Orders, upon which those Services were founded; since the considering the Occasion of an extraordinary acknowledged Expence must, we conceive, imply an Inquiry into the true Causes for which such an Expence was made; we did therefore think it necessary to desire Copies of the Treaties, Instructions and Orders relating to the several *Baltick* Expeditions, because without them we could not possibly learn the true Reasons of those Expeditions; and it seemed to us incongruous that the House should direct an Inquiry, and not contribute to it, by directing also those Materials to be laid before the Committee, which alone could render such an Inquiry effectual.

1722.

E. G

II.

(a) Groom of the Stole.

(b) Secretary of State.

(c) Lord Steward of his Majesty's Household.

(d) Lord Chamberlain of his Majesty's Household.

Anno 8. Geo. I.

1721-22.



II. Because the Want of such authentick Papers and Instructions could no ways, we think, be supplied by any verbal Representations, that might be made by Lords in the Ministry, as Facts occurred to their Memory in the Debate; this being no sufficient Foundation for any parliamentary Inquiry, much less for such a one as tends to approve, excuse, or blame the Measures of those in Power; since we cannot think it suitable either to the Rules of Reason or the Dignity of this House, to proceed to Resolutions relating to the Conduct of Ministers upon Facts stated by the Ministers themselves.

III. Because Motions for such Papers and Instruments have been frequently made and complied with, nor hath any such Motion ever (as far as we can learn) till of late been refused; the only Paper included in the general Motion that we thought any ways doubtful whether we should obtain, was the Lord *Carteret's* Instructions, which was moved for before, in this Session, without Success; however, we had Hopes of prevailing even for a Sight of that Paper, when it became necessary, as we apprehend, to qualify the Committee of the whole House to do the Work appointed by the House.

IV. Because the great Increase of the Navy-Debt arose from the frequent sending of strong Squadrons to the *Baltick*, and continuing them there at Seasons of the Year when the *British* Fleet has seldom been known to be employed so far from Home, and in so rugged a Climate; and therefore we thought it reasonable to expect the fullest Satisfaction in our Inquiries into the Grounds of Expeditions, which had been carried on in so unusual, expensive and hazardous a Manner; which the more extraordinary they were, the more they needed, in every respect, to be cleared and justified, that Misapprehensions prevailing without Doors, in relation to these *Northern* Transactions, might be rectified, and such Precedents might not remain without the Reasons on which they were founded; whereas we are now apprehensive, that any Resolutions on this Head may lose much of their Weight and Influence, should they be known to have been framed upon the Facts barely asserted by the Ministers, without Evidence of any sort to prove the Truth of those Facts.

V. Because one great View we had in our Motion for those Papers was to satisfy ourselves and others, that the Act of Settlement had been no ways infringed by those *Northern* Expeditions; a Point of the utmost Consequence to the present Establishment, and on which therefore all our Care and Circumspection ought to be employ'd: 'Tis the Birthright of the Peerage, as to concur in the enacting all  
Laws,

Laws, so to inquire into the Observation of them ; and the more momentous the Law is, the more it becomes us to consider how far it hath or hath not been violated ; and one great Inducement to our Inquiry into the Observation of that Law, was the Jealousy entertained (as we conceive) on that Head by many of his Majesty's good Subjects, observing that the War in the *North* ended at last in a Peace, which stripped *Sweden* of all its best Provinces, and confirmed the Acquisition of them to the several *Northern* Powers concerned, without any particular Advantage, that we hear of, stipulated in Behalf of *Great-Britain*, besides that of a new Guaranty for the Protestant Succession : A Sight of the said Treaties, Instructions and Orders might perhaps have dispelled these Apprehensions ; and therefore we thought it our Duty to move for them, and to express our Concern that such a Motion was over-ruled ; for we cannot think the Argument used to discourage us from insisting on that Motion (That it amounted to an Inquiry whether the King had broke his Coronation Oath) was consistent with the Freedom of parliamentary Debates, or agreeable to the known Rules of our Constitution, which free the Crown from all Blame, and suppose those only who give pernicious Counsels answerable for the fatal Effects of them.

Anno 8. Geo. I.

1721-22,

*W. Ebor', Boyle, Foley, Weston, Bristol, St. John de Blesho, Montjoy, Bingley, Scarsdale, Aberdeen, Compton, Fr. Cestriens', Fr. Raffen', Guilford, Strafford, North and Grey, Uxbridge, Aylesford, Gower, Batburst, Trevor, Cowper.*

Then the House (according to Order) was adjourned during Pleasure, and put into the said Committee : And after some Time spent therein, the House was resumed, and the Earl of *Clarendon* reported the two following Resolutions.

I. That it is the Opinion of this Committee, that the Resolutions employing great Numbers of Seamen for several Years last touching the past, more than were provided for by Parliament, and Navy-Debt. thereby increasing the Debt of the Navy, was occasioned by Services which either were pursuant to the previous Advice, or had the subsequent Approbation of one or both Houses of Parliament, and which were also necessary for the Safety of the Kingdom, and the Tranquility of *Europe*.

II. That it is the Opinion of this Committee, That the Nature of the said Services necessarily requiring some of his Majesty's Squadrons to be kept out the whole Year, and detaining others Abroad till the Months of *November* or *December* ; and it being requisite to fit out the said Squadrons

Anno 8. Geo. I.  
1721-22.

drons in the Month of *February* or the Beginning of *March*, in order to their sailing early in the Spring, the paying them off, upon their Return, was inconsistent with the due Performance of those Services ; nor could the Saving (if any) by such Payment have in any degree made amends for the ill Consequences, which must thereby have arisen from the Disappointment to the Service. The first of the said Resolutions being read a second Time, the Question was put, whether to agree with the Committee in this Resolution ? It was resolved in the Affirmative.

### *Dissentient*

Protest against  
the first Resolu-  
tion,

I. Because this Resolution seems to clash with the Instruction from whence it sprung, which was to consider the Occasion of the Increase of the Navy-Debt that arose from employing more Men in the Sea-Service than were provided for by Parliament ; whereas from the Resolution it appears only, that the Services occasioned the Debt, not what real Occasion or Reason there was for those Services, which yet was the Point we suppose chiefly in View, and most worthy of a parliamentary Inquiry.

II. Because those Services are, in this Resolution, supposed to be justified by the previous Advice or subsequent Approbation of one or both Houses of Parliament ; whereas it did not any way appear to us that either House of Parliament had previously advised, or subsequently approved such Services, though the Vouchers in that respect were often and earnestly required ; nor doth it appear to us, how that Assertion is warranted, either by general Expressions in Votes and Addresses, or by a State of the Navy-Debt communicated every Year to the Parliament ; and therefore being still in the dark, as to the Evidence pointed at, we could wish that the Growth of the Navy-Debt had been explained and justified by an Inquiry into the Ends and Reasons for which it was contracted ; but this Way not being taken, nor being possible to be taken till the Treaties, Instructions and Orders requisite to this Purpose are produced, we know not in what Sense either those Sea-Services, or that great Navy-Debt they caused, may be said to have been approved by this or the other House of Parliament.

III. But had we been duly informed of the true Motives upon which those Services were undertaken, and thereby enabled to judge of their Reasonableness, (as, we think, we in no Degree were) yet we still must be of Opinion, that those Considerations, how important soever, would not have justified the exceeding the Number of Men ask'd of and allowed by Parliament, which nothing but absolute and unforeseen Necessity can ever excuse ; whereas the Occasions

sions of these extraordinary Expences were foreseen, and Anno 8. Geo. I.  
 the Fleets were sent out for many Years successively, (the 1721-22  
 Parliament sitting) without any previous Demands made  
 of such Supplies as were proportioned to the Expence intend-  
 ed; and we are further of Opinion, that whenever such a  
 Debt is unavoidably incurr'd, it should be especially stated  
 to the Parliament, together with the Necessity that occa-  
 sioned it, at their next Assembling, that the Excuse may be  
 then either allowed or censured, and the Exceedings provided  
 for in time, instead of being suffered to run on for many  
 Years together, till an insupportable Debt is contracted,  
 without any other Notice taken of the Reason of its Growth,  
 than the laying annually a general State of the Debt on the  
 Table of the House of Commons. This we conceive to have  
 been the Case; and, if it be, we think, we do not err in af-  
 firming, that had the Services appeared to have been neces-  
 sary, yet this Manner of increasing the Debt would not have  
 been warranted.

IV. Neither can we apprehend, how the Safety of the  
 Kingdom depended upon those extraordinary Services, some  
 of which were performed in the *Mediterranean*, others in  
 the *Baltick*, against Powers not at Enmity with *Great-  
 Britain*, whose Friendship (it seems to us) we should rather  
 have cultivated, and whose Resentments we had, and still  
 have (we fear) Reason to apprehend: We cannot but think  
 it the true Interest of *Great-Britain*, to intermeddle as little  
 as is possible in the Quarrels of *Europe*; and then, by our  
 good Offices chiefly, without declaring any Resolution to  
 support our Mediation by Force, or making ourselves ei-  
 ther Principals or Parties in Wars that do not immediately  
 concern us. We look upon our Navy (the natural Security  
 of our Island) as too much hazarded, and some chief  
 Branches of our Trade as highly endangered, by the Con-  
 sequences of those remote Expeditions; nor are we yet sa-  
 tisfied, that the Peace, by us mediated and concluded in the  
*North*, hath not made the Provision of Naval Stores for our  
 Fleet more precarious than formerly, tho' on that single Ar-  
 ticle the Safety of the Kingdom may possibly depend; nor  
 can we judge the present Tranquility likely to last, since,  
 after all our Expence, the late *Northern* Peace hath reduced  
*Sweden* so low, and left the *Czar* in the Possession of such  
 Provinces as may render him very formidable; and what  
*Matters* may still remain unadjusted in Treaties, whereby the  
 present Tranquility may soon be disturbed, we cannot de-  
 termine, since we have not been indulged in our Desire of  
 inspecting into those Treaties,

Anno 8. Geo. I.  
1721-22.

*W. Ebor', Aylesford, Foley, Scarfsdale, Trewor, Aberdeen,  
St. John de Bletsbo, Strafford, North and Grey, Fr.  
Roffen', Gower, Fran. Cestriens', Boyle, Bathurst,  
Bristol, Weston, Uxbridge, Cowper, Guilford, Compton,  
Bingley.*

Then the other Resolution being likewise read a second Time, the Question was put, whether to agree with the Committee in the said Resolution, it was resolved in the Affirmative.

Protest against  
the second Re-  
solution.

*Dissentient',*

I. Because that Part of the Question, which concerns such of his Majesty's Ships, as are said, but not proved, to have been necessarily kept out the whole Year, has not the least Relation, as we conceive, to any Thing that has been yet objected to; which was the not paying Ships that came home before Winter, and ought, by the antient Usage of the Navy, to have been paid off, and therefore, we cannot but think, was very improperly made Part of the Question.

II. Because it being admitted in the Question, that the ancient Usage of the Navy was, That all Ships, when they returned home from their several Voyages, should not be kept in Pay during the Winter, (as was the Case of the late *Baltick* Squadrons for some Years past) and it not having been made appear, as we think, in a Parliamentary Way, That by any Treaty with *Sweden* it was necessary to send Ships sooner in any Year, than might have been consistent with the said antient Usage, we are of Opinion, that the Resolution will encourage the Practice complained of, and will greatly contribute to make Fleets, so much the Honour and Security of this Kingdom, too chargeable to be supported.

III. Because we cannot but be surprised, that there should be the least Doubt, as in the Question, whether any Money might have been saved by paying off the Men, when it appears by a Paper upon the Table, that several Ships Companies, amounting to many Thousands of Men, have been kept in Pay during the Winter, which Expence, we cannot but think, ought to have been avoided, it appearing from other Papers and Representations upon the Table, that by paying the Men off, more than five Parts in six of the whole Charge of those Men, during the Winter, had been saved to the Publick.

IV. Because a Resolution of this House, that seems to countenance a Practice of this Sort, (at a Time, when every Way of getting Money at the Expence of the Publick, is

found to be less in People's Thoughts than formerly) may probably encourage those, who shall have Opportunity in future Times, too readily to contribute towards the Increase of Navy-Debts, tho' they are attended with so many ill Consequences, that his Majesty, in a most gracious Speech from the Throne, has very lately been pleased to say, They do not only affect all publick Credit, but greatly increase the Charge and Expence of the current Service, and are, of all others, the most heavy and burthenfome.

Anno 8. Geo. I.  
1721-22.

*W. Ebor', Cowper, Trevor, North and Grey, Weston, Compton, Uxbridge, Strafford, Bristol, Aylesford, Guilford, Boyle, F. Roffen. Barbursf, Scarisdale, Gower, F. Cestriens. Aberdeen, Foley, St John de Bletfoe.*

**February 1.** The Lords in a Grand Committee, resum'd the Consideration of the Navy-Debt; and the Debate was open'd by the Earl of Uxbridge's moving, that some Accounts and Orders, relating to the Victualling, when the Fleets were in the *Baltick* and *Mediterranean*, might be read. After the reading of those Papers, his Lordship endeavour'd to shew, 'That one Occasion of the Increase of the Navy-Debt, was the Ships being victuall'd abroad, by the Commanders, and not by the proper Officers of the Victualling-Office, who are Cheques upon one another; whereas the other Way there might be great Abuses, by Commanders charging more to the Government for the Provisions, than they really cost.' The Lord *Torrington* \* thinking himself reflected upon, as he was Commander in Chief in the *Mediterranean*, endeavour'd to justify himself from any Imputation of that Nature, and among other Things alledg'd, 'That Provisions were much dearer there than in *England*; that it was impossible to carry such Quantities from hence, as would serve for any long Time; and therefore they are oblig'd to buy them there at any Rate.' His Lordship was supported by the Lord *Townshend* and the Earl of *Illy*; and tho' the Earl *Cowper*, the Lord *Barbursf*, the Earl of *Strafford*, and the Earl *Coningsby* back'd the Earl of *Uxbridge*, yet the Question being put, That the Victualling his Majesty's Ships by any other than the Victuallers appointed for that Service, is contrary to the Course of the Navy, and by taking away the proper Cheques, is one great Cause of contracting so large a Navy-Debt; it was resolv'd in the Negative without dividing.

Debate on the  
E. of Uxbridge's  
Motion, That  
Victualling the  
Ships abroad was  
one Cause of the  
Increase of the  
Navy-Debt.

Ld Torrington.

Ld Townshend.  
E. of Illy.  
E. Cowper.  
Ld Bathurst.  
E. of Strafford.  
E. Coningsby.

### *Dissentient*

I. Because it being unquestionably the ancient Course of the Navy to victual all his Majesty's Ships by the Commis- sioners Proteft on that Occasion.

• Treasurer of the Navy.



Anno 8. Geo. 1.  
1721-22.

fioners of the Victualling or their Agents, unless in Case of Necessity; and it appearing to us, by a Paper returned before this House from the Victualling-Office, that many Ships and Squadrons of Ships have of late Years been victualled by the Commanders, very few of which were so victualled by any Order, and amongst those many Instances a few only were excused, because there were no Agents for the Victualling-Office, nor any Stores in the Places where the Ships then were; we think it reasonable to conclude that all the several Victuallings in the said Paper contained, being much the greater Number, which were neither excused therein, nor said to be ordered, were so provided without any Order or Excuse whatsoever; and consequently were a needless Breach of the said good Course of the Navy, and by taking away the proper Check made to save the Publick Money must, in our Opinion, necessarily have been one of the Occasions of the Increase of the Navy-Debt.

II. We cannot but observe, that if the said Excuse had (in the Paper above mentioned) been applied to all the several Instances there of Victualling, in a Manner contrary to the Course of the Navy, yet it had been insufficient, since it is not alledged that Agents for the Victualling and Stores might not have been timely had in the Places where the Ships were victualled, if due Notice had been given to the Commissioners of the Victualling, and proper Precautions and Endeavours had been used to that End.

III. We cannot but think, that carrying this Question in the Negative will undoubtedly encourage this Breach of the Course of the Navy, as it is acknowledged to be, and in consequence put it into the Power of every Admiral or Commander in chief of any Squadron, and every Commander of a particular Ship, not only to furnish such Provisions, both in Quantity and Quality, as they shall think fit, but by letting the Men go on Shore, when in Port, on Pretence of supplying Provisions, leave a Charge on the Publick for want of the proper Check, though to the Detriment of the Sea Service.

IV. Because by this Leave given to the Commanders on the Head of Victualling, they have it in their Power (thru' the Want of the said true and ancient Check) to bring a very great Charge upon the Head of Wages, which must undoubtedly, as we apprehend, occasion a great Waste of the Publick Treasure, and consequently an Increase of the Navy-Debt.

V. Because, we think, that to suppose the Commander of any Squadron or Ship will not, when it is so entirely in his Power, do what shall be for his Interest, is to believe him

him less inclined to his Interest than the Generality of his Fellow-Subjects on Shore. Anno 8. Geo. 1.

1721-22.

VI. Because, we believe, if this House will not discourage taking away proper Checks, till Proof had (as urged in the Debate) of what had been got by Individuals for Want of those Checks, the Delay and Difficulties attending such an Inquiry will probably hinder any Discouragement being given to such Practices, which are allowed to be contrary to the standing Instructions to the Commissioners of the Victualling, and to the Commanders of his Majesty's Ships.

*W. Ebor', North and Grey, Compton, Boyle, St John de Bletsoe, Batburs, Scarsdale, Trevor, Strafford, Craven, Guilford, Bingley, Litchfield, Aylesford, Bristol, Uxbridge, Cowper.*

Feb. 3. The Lord Chancellor not coming to the House till the Lords had been met above two Hours, and not having sent to the Lord Chief Justice *King*, whom his Majesty, by Letters Patent under the Great Seal, enter'd in the Journal, had authoriz'd to supply the Place of the Lord Chancellor, in his Lordship's Absence, Earl *Cowper* moved, That in Order to go upon the Business of the Day, they should proceed to the Choice of a Speaker, *pro Interim*; and the Dukes of *Somerset* and *Kingston* were named, but these going out of the House to avoid it, the Lord *Lechmere* was nam'd next, and like to be chosen: While this Matter was debating, the Lord Chancellor came in, and, to excuse himself, said, 'He had been attending the Cabinet Council at *St James's*, and that they were but just up.' Several Lords would not admit of that Excuse, but suggested, That the House of Peers, being the greatest Council in the Kingdom, to which all other Councils ought to give Way, ought not to be made to wait on any Account; and therefore moved, that, in order to shew their Resentment, the House should adjourn to the *Monday* following; but the Question being put thereupon, was carry'd in the Negative, by 49 Voices against 31. Hereupon the following Protest was enter'd.

Protest on refusing to adjourn, when the Lord Chancellor came late to the House.

### *Dissentient'*

I. Because the House standing adjourned to this Day at Eleven o'Clock, and a great Number of Lords being met, and expecting the coming of their Speaker till near Three o'Clock, they seem'd to us generally to resent this Usage, and without any Dissent, that we could perceive, proceeded, according to the standing Order of this House, towards chusing a Speaker; but meeting with some Difficulties as to the Persons nominated, the Lord Chancellor came before

1722.

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any

Anno 8. Geo. I.  
1721-22.

any Choice made ; and as soon as the House was sat, the Lord Chancellor alledged, as the Reason of his long Absence, That he had been summoned to attend his Majesty at *St James's*, where the Business had lasted much longer than was expected ; which Excuse, though it might in great measure free the Lord Chancellor from the Imputation of wilful Neglect of Duty, yet it seem'd to us in no Degree to justify the Indignity which we think was upon the whole Matter done to the House, which is undoubtedly the greatest Council in the Kingdom, to which all other Councils ought to give Way, and not that to any other \* ; and therefore the Business of any other Council ought not to have detained the Speaker of this House after the Hour appointed for its Meeting, and during the Time of the Day the House has usually of late spent in Business ; and therefore we thought the least Resentment the House could shew on this Occasion, to prevent its being used so for the future, was to adjourn without entering on any Business ; and this the rather, because we foresaw it could not obstruct any publick Affairs, since the Time was so far spent, as that no Business of Consequence could well have been gone through with Effect, though enter'd upon.

II. As we may venture to say, That the Dignity of this House has not been of late Years increasing, so we are unwilling that any Thing, we conceive to be a gross Neglect of it, should pass without some Note on our Records, that we were sensible of such Neglect, and did not approve it ; which we thought would have been in some Measure attained by an immediate Adjournment, nor was any other Method proposed ; and since that could not be effected, we enter this Dissent, with our Reasons, that it may appear to Posterity we were zealous to withstand, in a Manner proposed, the further Progress of a Practice so injurious, as we conceive, to the Honour and Authority of this supreme Council.

*W. Ebor', Uxbridge, Weston, Boyle, Cowper, Somerset, Scarsdale, Bingley, Maynard, Guilford, North and Grey, Litchfield, Bathurst, Osborne, Strafford, Craven, Montjoy, Trevor, Ashburnham, Bristol, Foley, St John de Bletjoe, Fran. Cestriens', Aberdeen, Compton.*

Debate on the Bill, relating to the building Ships of War for Foreigners.

On the 10th of February, the Lords consider'd in a Grand Committee the Bill, *To enable his Majesty to restrain any of his*

\* Here is a various Reading, viz. after the Words, and not that to any other, thus : Especially to a Council the Law and Constitution know not, and therefore the Business of that Council, of all others, ought not, &c.

*his Subjects from building Ships for Foreigners.* Hereupon Anno. 3 Geo. I.  
the Lord *Harcourt* propos'd, That a Clause might be added, 1721-22.  
for excepting Ships that carry'd not above 20 Guns and 36  
Men. He was seconded by the Duke of *Argyle*, and sup-  
ported by the Lord *Carteret*, the Lord *Carleton* \*, the Lord  
Viscount *Townshend*, and the Earl of *Scarborough*; but being  
oppos'd by the Earls *Cowper* and *Strafford*, the Debate was  
adjourn'd to the 14th.

On that Day the Lords went again in a Grand Commit-  
tee upon the said Bill, and then Earl *Cowper* mov'd, That  
in the first Clause these Words might be added, *viz.*  
*Ships of 400 Tons and upwards, and 30 Men*; but this being  
strenuously oppos'd by the Lord *Townshend*, the said Ad-  
dition was rejected, without dividing; and the farther  
Consideration of that Bill was adjourn'd to the 20th.

*Feb. 13.* The Lords read a second Time, the Bill, *For*  
*the better securing the Freedom of Elections of Members to*  
*serve for the Commons in Parliament:* A Motion being made  
that the said Bill be committed, the Earl of *Sunderland*  
endeavour'd to shew the Impossibility of several Clauses in  
that Bill being put in Execution, without exposing the most  
innocent Persons to the Guilt of Perjury. He was answer'd  
by Lord *North* and *Grey*, Lord *Trevor*, the Bishop of *Ro-*  
*chester*, and the Earl of *Strafford*; but the Earl of *Sunder-*  
*land* reply'd to them, and was supported by the Lord *Town-*  
*shend*, and the Duke of *Argyle*.

Then the Question being put, That the said Bill be com-  
mitted, it was resolv'd in the Negative, by 48 Voices a-  
gainst 30.

Then it being mov'd, that the said Bill be rejected, it  
was resolv'd in the Affirmative by 57 against 38, *viz.*

|         |    |   |    |             |    |   |    |
|---------|----|---|----|-------------|----|---|----|
| Content | 48 | } | 57 | Not-Content | 30 | } | 38 |
| Proxies | 9  |   |    | Proxies     | 8  |   |    |

Ld Harcourt.  
D. of Argyle.  
Ld Carteret.  
Ld Carleton.  
Ld Townshend.  
E. of Scarborough.  
E. Cowper.  
E. of Strafford.

Debate on a Bill  
to secure the  
Freedom of E-  
lections.  
E. of Sunderland.

Ld North and  
Grey.  
Ld Trevor.  
Bp of Rochester.  
E. of Strafford.  
E. of Sunderland.  
Ld Townshend.  
D. of Argyle.

### *Dissentient*

*Somerset.*

I. Because the Methods of Corruption made use of in E-  
lections, and now grown to an Height beyond the Ex-  
ample of preceding Times, are, of all others, the greatest  
Blemish to our Constitution, and must, if not remedied,  
prove fatal to it; and did therefore chiefly deserve, as they  
can only admit of, a Parliamentary Cure.

II. Because the Commons, who are the best qualified to  
judge of the Growth of this Evil, and to point out proper  
Remedies for it, having sent up a Bill complaining of the  
one, and desiring our Assistance in the other, it was not,  
we apprehend, suitable to the Dignity and Wisdom of this

1722.

F f 2

House

\* Lord President of the Council.

Anno 8. Geo. I. 1721-22. House to reject such a Bill, without entering into a free Discussion of the Particulars of which it consisted, and thereby to give an Handle for Reflections without Doors, as if we had shewn a less Degree of Zeal against the Corruptions complained of than those from whose Elections it sprung; our Opinion is, that we should rather have taken this favourable Opportunity of joining our Endeavours with theirs, towards the Cure of this Evil, than have made ourselves liable to Objections for refusing to attempt it, even after such an encouraging Step taken by the House of Commons.

III. Because a Law against Corruption, though always desirable, is yet particularly seasonable and necessary at such a Juncture as this, when new Elections of Members are coming on, and the Parliament for which they shall (by what Methods soever) be chosen, may continue for seven Years; and, we think, the Lords are the more concerned to obviate the ill Consequences of such a Choice, because the *Septennial Act*, which made so remarkable a Change in our Constitution, had its Rise in this House.

IV. Because we are persuaded, that by the Terror of the Penalties contained in this Bill, which were to have operated soon after it had passed into a Law, a mighty Check would have been given to the Growth of Corruption, though it should not have been absolutely cured; and we are confirmed in this Opinion by what we heard and believe, that while the Bill was depending in Parliament, and the Fate of it unknown, the impious Practices at which it was levelled were in some measure suspended; and should a further Stop have been put to Corruption and Bribery at the approaching Elections, by passing this Bill, such a Degree of Success might have given the Legislature Hopes of an entire Suppression of it.

V. Because supposing this Bill to have been defective in some respects, and not well adjusted in others to the End designed (a Supposition made, but not admitted by us) yet the true Way of supplying all these Defects, and making all proper Alterations, would have been by committing the Bill, and not by rejecting it: In other Cases, where a Bill of publick Concern is laid aside by the House, they can easily make Amends for that Loss by bringing in a new one, which may more effectually answer the good Ends proposed; whereas in this Case there is neither Time sufficient for repeating the Attempt, nor can any Bill of this Kind be ever begun in this House with any reasonable Prospect of Success.

VI. Because the Intention of many chief Clauses in the Bill is to provide for the more effectual Execution of Laws already

already made to secure the Freedom of Elections, but hitherto evaded for want of such Provisions; and we know not that any Argument hath been or can be used against passing such Parts of this Bill into a Law, but what may with equal or greater Strength be urged for repealing those Laws, which yet are held sacred and inviolable.

Anno 8. Geo. I.  
1721-22.

VII. Because several Oaths are, by Laws now in Being, required to qualify Electors, and the Oaths enjoined by this Bill are intended only to strengthen the Obligations under which such Electors do, by the known Rules of our Constitution already lie: nor are these Oaths attended with any new Hardship or Difficulty, since they relate only to plain Matters of Fact, which are certainly known to the Electors themselves, and which they will be ready to attest with all Solemnity, if they are conscious of their own Innocence; and if they are not, the legal Punishment of Perjury to which they are subjected is light, in comparison of the heinous Nature of their Offence, and the mischievous Consequences of it.

VIII. Because that Part of the Bill, which forbids the issuing of publick Money towards influencing Elections, relates to a Method of Corruption, which, of all others, ought the most carefully to be guarded against, and yet was admitted in the Debate to have been frequently practised; and therefore we cannot but wish, that this Bill had been passed into a Law for the sake of that Clause, which would have hinder'd what was given for the Security of the Subjects Rights, and the Safety of the Kingdom, from being ever employed to the Destruction of both: An Example, if thus set by Men in high Offices and Stations, cannot fail of spreading its Influence through all Ranks and Orders of Men, and procuring Impunity and Applause for such Practices, as all true Lovers of their Country must wish might be universally detested and punished.

IX. Because we cannot understand how the Objection made to this Bill (That it removes Foundations) can, with any Colour of Reason be supported; on the contrary, we think, that the whole Design of it is to recover our old Constitution, and settle it on those firm Foundations from which it has been removed, ever since Bribery has been made an usual Inlet to Parliament, and that dangerous Traffick has been carried on between the Electors and the Elected, which has undermined the virtuous Principles, and may prove fatal to the Liberties of the free People of this Realm.

X. Because another Argument insisted on in Prejudice of the Bill (That it would give the House of Commons greater Latitude in deciding disputed Elections) seems to us to be equally groundless; for the Penalties intended to be enacted

Anno 8. Geo. I. ed by this Bill are to take place only upon Prosecutions in the ordinary Courts of Justice, and cannot come under the Cognizance, or be inflicted by the Authority of the House of Commons; nor can the Courts below be checked in their Proceedings on this Head by the Determinations of that House, with which the Methods of punishing Corruption, prescribed by this Bill, do not in the least interfere: What therefore was alledged in the Debate can by no Means be allowed (That while the Commons are the sole Judges of Elections, 'tis in vain to think of restraining the Corruption of Electors) since the Methods here prescribed are such, as either operate upon the Conscience, or will, in the common Course of Law, execute themselves; and tho' they may be forwarded, yet cannot be frustrated by the Intervention of an House of Commons.

XI. Because as the passing this Bill would have been attended with no Inconveniencies to the Publick, so great Mischiefs may, we apprehend, ensue upon the rejecting it: The Honour of this House may suffer on that Account, and Corruption of all sorts will, we fear, receive new Life and Encouragement; it being a Matter of daily and certain Observation, that whenever a Bill is brought into Parliament to redress any great Disorders in the State, any Discourteousness given to such a Bill will always countenance and increase such Disorders, and make them less capable of a Remedy in succeeding Times, especially when it shall be affirmed in the Debate, that all Bills of this kind do more Mischief than Good; which way of Reasoning, should it prevail, will effectually prevent all future Attempts towards curing this great Evil, and preserving the Constitution of Parliaments.

*Strafford, Kent\*, Cowper, Tadcaster, Uxbridge, Weston, Foley, Bathurst, Fran. Cestriens', Scarsdale, Brisel, Litchfield, Maynard, Boyle, Compton, Trevor, North and Grey, Salisbury, Guilsford, Craven, Montjoy, Aylsford, Masbham, F. Rossen', Bingley, Aberdeen.*

In the Course of this Debate the Earl of *Sunderland* having suggested, That it had been a common Thing in former Reigns for Money to be issued out of the Treasury, and even remitted from *France*, for promoting the Election of Persons in the Court Interest. This Suggestion was the Reason of inserting in the said Protest these Expressions, 'That the issuing of Publick Money towards the influencing Elections, related to a Method of Corruption, which, of all others, ought, the most carefully, to be guarded against, and yet was admitted, in the Debate, to have been frequently practised.'

E. of Sunderland complains of the said Protest.

\* Appointed Ld Privy Seal, Feb. 6, 1718-19; but resign'd in June, 1720.

‘ practis’d.’ On the 19th the Earl of *Sunderland* took from thence Occasion to represent, ‘ That every Member of that illustrious Assembly, had, indeed, a Right to dissent from, and protest against any Bill depending, or any Resolution taken in the House; but that it was an intolerable Abuse to wrest any Man’s Words, and put false Construtions upon them, as had been done in an Instance relating to himself: That he durst appeal to any Lord in the House, that was not a Protester, whether, in the Debate about the Bill above-mention’d, he said, or intimated, that the issuing publick Money for Elections had ever been practis’d in this Reign; for what he meant, was only in King *Charles’s* and King *James’s* Time. His Lordship added, that the Business of Protests was manag’d now after another Manner than formerly; for, at present, it was grown customary to protest even against Bills that were pass’d into a Law, and to get them printed, and handed about in Coffee-Houses, and sent all over the Kingdom, to inflame the Minds of the People against the Administration; and therefore he thought it high Time to have the Method of Testing regulated.’ Debate thereon.

This Speech was answer’d by the Earl *Cowper*, who was back’d by the Lord *North* and *Grey*, Lord Bishop of *Rochester*, Lord *Barbours*, Earl of *Strafford*, and Earl of *Aylesford*; but they were reply’d to by the Earl of *Sunderland*, Duke of *Wharton*, Lord *Townshend*, Duke of *Argyle*, Lord *Carteret*, Lord *Harcourt*, and the Duke of *Newcastle*, which last mov’d, for taking into Consideration the Protestation enter’d in the Journal of this House the 13th Instant, against rejecting the Bill, *For securing the Freedom of Elections of Members to serve for the Commons in Parliament*; and the several Reasons for the said Protestation being read, after Debate, the Question was put, whether the entire Entry of the Reasons for the said Protestation on the 13th Instant, shall be expung’d, it was resolv’d in the Affirmative: Content 55, Not-Content 22.

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1721-22.

E. Cowper.  
Ld North and Grey.  
Bp of Rochester.  
Ld Bathurst.  
E. of Strafford.  
E. of Aylesford.  
E. of Sunderland.  
D. of Wharton.  
Ld Townshend.  
D. of Argyle.  
Ld Carteret.  
Ld Harcourt.  
D. of Newcastle.  
The said Protest expunged.

### *Dissentient*

I. Because we are of Opinion, that the Reasons expunged were, both as to the Matter and Form of them, agreeable to Precedents in former Parliaments, still remaining on the Journals, uncensured by the House.

II. Because we were very desirous that the Arguments, contained in those Reasons, against Bribery and Corruption in Elections, and our Zeal for obtaining such Remedies as were propos’d by the Commons themselves, might appear to Posterity as fully and particularly as possible.

III. Because as the Practice of expunging Reasons is not ancient, so the Method taken upon this Occasion, of expunging



Anno 8. Geo. I. expunging many Reasons of various kinds by one general  
 1721-22. Question, is (we conceive) unreasonable in itself, and is  
 countenanced but by one Precedent on our Books.

*W. Ebor', Coxper, Fr. Roffen', Uxbridge, Aylesford,  
 Boyle, North and Grey, Strafford, Aberdeen, Batburs',  
 Bingley, Fra. Cestriens', Foley, Albburnbam, Litchfield,  
 Weston, Montjoy, Bristol, Guilford, Compton, Maynard.*

Then the Order of the Day for the House to be in a Committee again, to take into farther Consideration the Causes of contracting so large a Navy-Debt, being read, the Question was put, that the House be put into a Committee again, to take into farther Consideration the Causes of contracting so large a Navy-Debt, on this Day three Weeks, it was resolv'd in the Affirmative.

#### *Dissentient'*

Protest against  
 adjourning the  
 Consideration of  
 the Navy-Debt.

I. Because the putting off the farther Consideration of the Causes of the Navy-Debt to so distant a Day, after so long an Adjournment of the same Matter already had, is, as we conceive, not only a Discouragement and Delay, but, as the Session may happen to end, will totally prevent (at least during this Session) that Inquiry, which, as we apprehend, would greatly have tended to the Publick Good, in hindering so large a Navy-Debt from being contracted for the future.

II. Altho' the said Inquiry has been a great while depending, yet a very few Days, as appears by the Journal, have been allowed for it, and one of those was employed in reviewing two Questions, which were at first kept from being put, by previous Questions; and therefore, we conceive, a few Days more ought not to have been denied, for the looking into a Matter of so very great Importance to the Publick.

III. We apprehend, that all Matters properly brought before either House of Parliament, especially Inquiries into Mismanagements of the Publick Business, ought, if the Time will allow it, to be freely and fully discussed and determined one way or other, and ought not to be kept off from coming to any Determination, by one long Adjournment after another, till the Session be ended.

IV. Because it was alledg'd in the Debate, as a Reason against so long an Adjournment, That the Subject-Matter of the Inquiry was not near exhausted; and that the Points already considered and determined had no Relation to those proposed to be considered in the farther Inquiry; and consequently the Determination of the former could in no Degree

gree prejudice the latter, or make the going upon them needles or improper ; and to evince this, severall of the Particulars designed to have been proceeded upon were specified ; as,

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1721-22.

That it appeared by Extracts of severall Letters on the Table, especially by a Letter from the Navy-Board, dated the 13th of *February* 1701, that the Practice of turning over Companies, or Part of Companies, from one Ship to another, without their Officers, was a Charge to the Crown, by confounding Accounts, and otherwise, as well as disgusting to the Seamen.

That by other Papers before the House, it appeared, that severall Squadrons have gone out of late without Muster-Masters, whose Office and Duty it is to detect Frauds in Pay, and on the Head of Victualling.

That in the Year 1720, two thousand two hundred and one Men were employed in the Yards more than in the Year 1714, and two thousand six hundred and twenty-seven Men more than in the Year 1698, and that the Wages of those Men have of late been greatly increased ; both which, for aught appeared to us, are an unaccountable Increase of that Charge to the Publick.

That since the Year 1714, many new Captains and Lieutenants had been made, while great Numbers have been kept in Half-pay and unemployed, besides those created on Vacancies which happened while the Ships were abroad, and by that Means an unnecessary Charge has been continued on the Publick, and the elder Officers disoblged.

That without any Order or Establishment by his Majesty in Council, Pay has been allowed, contrary to the Usage of the Navy, to Flag-Officers at home during the Winter, on Pretence of their making a Journey or two to see their Squadrons equipped.

That without such Order or Establishment of his Majesty in Council, Captains and Commanders of small Numbers of Ships have been paid as Rear-Admirals, on Pretence of having Captains under them ; and in but one Instance, that we could observe, a Reason given why they had Captains under them, unless it was to colour their having such Pay.

And we are well assured, that, on farther Inquiry, it will appear that new Lieutenants have been made abroad, and old ones, fit to serve, sent home to be put in Half-pay.

That Flags have been paid in double and treble Capacities.

That Flags and other Officers have been paid as in higher Stations than those they served in.

That two or three Flags of the same Sort have been paid at the same Time.

1722.

G g

That

Anno 8. Geo. I. That Retrospections of Pay have been allowed to Flags  
1721-22. and other Officers.

All which being against the ancient Oeconomy of the Navy, and wasteful of the Publick Treasure, we think, should have been inquired into without Loss of Time.

These Mismanagements, as we take them to be, and others which might have appeared on farther Consideration of this Matter, contributing, as we apprehend, to waste the Publick Treasure, must necessarily have been, in a great Degree, an Occasion of contracting so large a Navy-Debt; and therefore we are of opinion, that one or more farther Days, which would probably have fallen within this Session, should have been appointed for the taking them into Consideration; which not being done, we the rather enter this Protest, with our Reasons, as what, we hope, may give an Occasion to the resuming the Thoughts of this Matter in another Session of Parliament.

*W. Ebor', Montjoy, Fr. Rossen', Bingley, Uxbridge, Strafford, Boyle, Fran. Cestriens', Aberdeen, Foley, Bristol, Guilford, Compton, Bathurst, Cowper, Ashburnham, Aylesford, North and Grey.*

Debate on the National Debt. Feb. 20. The Lords took into Consideration the National Debt, and Earl Cowper took Notice, how much the same had been increas'd for several Years past, as appear'd by the State of the Publick Debt, extracted from the Books of the Treasury, and this without any visible Occasion, since every Thing that had been ask'd of the Parliament, had been readily granted and provided for, every one of those Years; and therefore his Lordship mov'd, That it appears by the State of the Publick Debt before this House, that the same (exclusive of the Debt of the Navy) is increas'd between the 31st of December 1717, and the 31st of December 1720, at least the Sum of 2,300,000 *l.* notwithstanding that the Sinking Fund has produc'd within that Time 1,910,385 *l.* 14 *s.* 6 *d.*  $\frac{1}{2}$ . This Motion was seconded by the Lord Bathurst, and supported by the Lords Bingley, Trevor, and North and Grey: But they were all strenuously oppos'd by the Lord Carteret, and Townshend, Earl of Ilay, the Earl of Sunderland, the Bishop of Sarum, and the Earl of Scarborough, so that the Question being put upon the said Motion, it was carried in the Negative by 50 Voices, against 23.

Ld Bathurst.  
Ld Bingley.  
Ld Trevor.  
Ld North and Grey.  
Ld Carteret.  
Ld Townshend.  
E. of Ilay.  
E. of Sunderland.  
Bp of Sarum.  
E. of Scarborough

Protest on that Ocasion. *Dissentient'*

Because the Question consisted wholly of Matters of Fact, which were exactly agreeable to a Paper laid before the House

House by the proper Officer on the Address of this House ; and as it is not reasonable to be presumed, that the Officers of the Crown would state the Debt higher than it really was, so we cannot but think that nothing was alledged in the Debate that made it appear the Debt was less than stated in the Question ; but on the contrary, had the exact *Quantum* of the Debt been material to have been inquired into on this Occasion, it was evident to us, even from a *Memorandum* at the Bottom of the same Paper, that the Debt was, in Reality, much higher the 31<sup>st</sup> of December, 1720, than stated in the Question \*.

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*W. Eber', Bristol, Bathurst, Montjoy, Compton, Boyle, Strafford, Guilford, Aberdeen, Weston, Litchfield, Fr. Raffen', Cowper, North and Grey, Fran. Cestriens', Foley, Uxbridge, Albburnham.*

The same Day a Motion was made, That the lessening the Publick Debt annually, by all proper Methods, is necessary to the restoring and preserving the Publick Credit. And a Question being stated thereupon, after Debate, the previous Question was put, whether the said Question shall be now put ? It was resolved in the Negative.

#### *Dissentient'*

I. Because as the main Question is undeniably true, and seems to us admitted to be so, by its being prevented to be put by the previous Question, so we think it would have been highly expedient and useful to the Publick to have had it put and voted in the Affirmative, that by the declared Opinion of this House (which must always be of the greatest Authority) those, who are more immediately concerned to take care of the Publick Credit, might not rely on vain and deceitful Projects for restoring and preserving the Credit of the Nation, but apply themselves seriously and diligently to bring about the only effectual Means of doing it.


II. Although so clear and evident a Truth, as is contained in the main Question, cannot when proposed but obtain the Consent of all, especially of such as are qualified to be in great Stations, yet at this Juncture, when the Publick is under such great Necessities from the unexampled Pressure of Debts, and when all other Remedies hitherto attempted have proved ineffectual, if not mischievous, we cannot but conceive it was extremely proper, and must have greatly conduced to the restoring and preserving the Publick Credit, to have quicken'd the Endeavours for that Purpose.

1722.

G g 2

pose

\* This Protest was expunged by Order of the 3d of March following.

Anno 8. Geo. I. 1721-22.  post of all in the Publick Service, by so high an Authority as a Resolution of this House, not only pointing out to them the Way they should take towards that good End, but intimating also, that as far as is possible to be attained, the doing so would be expected from them.

And therefore, we conceive, the main Question should have been put and voted (as we think it must have been, had it been put) in the Affirmative.

*W. Eber', Strafford, Cowper, Ashburnham, Weston, Bathurst, North and Grey, Compton, Fran. Roffen', Boyle, Uxbridge, Foley, Bristol, Aberdeen, Guilford, Litchfield, Fra. Ceshiens'.*

Debate on the  
E. of Sunder-  
land's Motion  
for limiting the  
Time for enter-  
ing Protests.

E. Cowper.

Bp of Rochester.

Ld Bathurst.  
Ld North and  
Grey.  
Ld Trevor.  
Ld Townshend.  
Ld Onslow.  
E. of Sunderland.  
Bp of Peterbo-  
rough.  
D. of Argyle.  
Ld Carteret.

On the 27th of *February* the Earl of *Sunderland* took Notice, 'That the Privilege of entering Protests had, of late been so much abused, that, in his Opinion, some Restraint ought to be put to it, by limiting the Time for entering Protestations, upon asking Leave of the House, which was never denied: And therefore he moved, 'That such Lords as shall enter their Protestations with Reasons, shall do the same before Two o'Clock the next sitting Day, and sign them before the House rises.' This was opposed by Lord *Cowper*, who alledged, 'That the Time being so short, and very few Lords coming so early, such an Order would, in Effect, put an End to all Protesting, which was an ancient Privilege of that House.' The Bishop of *Rochester* added, 'That if Protests were limited to so short a Time, this was, at least, the Way to have them crude and undigested; and he thought it unbecoming the Dignity of that august Assembly to have any Thing entered upon their Journals, which were Records for After-Ages, before it had been duly considered on, and well digested.' He was supported by the Lords *Bathurst, North and Grey*, and *Trevor*: But they were opposed by the Lords *Townshend* and *Onslow*, the Earl of *Sunderland*, and the Bishop of *Peterborough*, the Duke of *Argyle*, and the Lord *Carteret*; and the Question being put upon the said Motion, it was resolved in the Affirmative, by 48 Voices against 18; and an Order was made, pursuant to the said Resolution. Then a Motion was made, That the said Order be made a standing Order of the House, &c. but the Debate on that Motion was adjourn'd to the 3d of *March*, when all the Lords were ordered to be summoned.

*March* 2. The Lords read a second Time an ingrossed Bill from the Commons, To prevent the clandestine running of

• Dr Kennet.

of Goods, &c. And the Question being put, whether the Bill do pass, it was resolved in the Affirmative, by 36 against 19.

Anno 8. Geo. 1.  
1721-22.

*Dissentient*

I. Because we are very sensible of the ill Consequences that attend the pernicious Practice of running of Goods; and therefore with some reasonable, proper and effectual Method (which we do not take this Bill to be) might have been set on Foot to prevent it.

Protest against  
passing a Bill re-  
lating to running  
of Goods.

II. Because the making the Alteration, by a former Bill, from Ships of 15 Tun to those of 30, has not proved of any Advantage, as we apprehend, since it has been admitted that the Customs have fallen since; and we find no Ground to hope, that the farther raising the Prohibition to Ships of forty Tun, as is done by this Bill, will be effectual; but, we think, there is Reason to fear that it may be a great Prejudice to the Coasting-Trade in particular, since the Owners of such Vessels are thereby subjected to the heavy Penalty of losing their Ships, when possibly they may be entirely innocent themselves, and the Fault may be committed only through the Folly or Knavery of the Sailors, which will discourage the lending small Vessels to those who trade in them, by which a great Part of the Coast-Trade is at present carried on.

III. Because the Penalty of Banishment in the Bill seems, in some Cases, to be annexed to a very small Offence: We do not think it too great for any one who shall be taken with Goods of any considerable Value, and with a manifest Intent to defraud his Majesty of his Customs; but as the Bill is worded, it will, as we conceive, extend to any Gentleman, if armed, returning from his Travels, who has about him knowingly the least Trifle that has not been entered and paid Duty, tho' he has not the least Design to defraud the King of his Customs, or thinks he is transgressing any Law whatsoever; and we do not think fit to depend, that so severe a Law may not, in such hard Cases, be sometimes executed with Rigour.

IV. Because it was endeavoured, but without Success, at the Committee, to have excepted the Barges of Noblemen and of the Lord Mayor and Companies of the City of London, which cannot be supposed to be used (and the great Barges of State belonging to the City cannot be used) in the running of Goods; and therefore, we conceive, the making it necessary for the Nobility, or the Lord Mayor and Companies to apply to the Admiralty, for a Licence to use their own Barges on the River Thames, or lay aside the Use of them for want of such Licences, which cannot be obtained

Anno 2. Geo. 1. tained without giving such a Security as will bind and incumber the real Estates of the Obligers, to be not only a great and unnecessary Indignity, but also an Invasion of Property, especially in the Case of the Barges belonging to the City of *London*, which City has an ancient Right to the Conservation of the River *Thames*, and as high an Interest in it as is possible to be had in any navigable River; and therefore we think it absurd, as well as injurious to Property, to compel the great Officers and Companies of that City to ask and give Security for a Licence to navigate or pass on that Part of the *Thames*, which may not improperly be called their own River.

1721-22.

V. It seems to us partial and unjust, that the Prohibition of Barges, and other Vessels described in the Bill, should extend only to the Counties for that Purpose named in the Bill, and not to other maritime Counties, especially such as are most infamous for running Goods; where, tho' the Vessels described may not as yet be so much in Use as in the Counties named, yet will undoubtedly be more used in other Counties not named, when they can no longer be kept in the Counties or Places the Bill extends to; and, we conceive, Laws should not make a Distinction where there is no Difference in Reason, on a Dependence that it may be supplied by a new Law another Opportunity.

VI. Because the Time allowed by the Bill (*viz.* to the 25th of this Instant *March*) either to dispose of the Barges and other prohibited Vessels, or obtain Licences for the keeping, is much too short, as we conceive, and will prove the Occasion of more Hardships being done than can possibly be foreseen.

*Scarsdale, Montjoy, Bristol, Litchfield, Weston, Fra. Roffe, St John de Bletsoe, Aberdeen, Foley, North and Grey, Guilford, Uxbridge, Craven, Boyle, Strafford, Compton, Bathurst, Cowper, Massam.*

*March 3.* The Lords, according to Order, proceeded to take into Consideration the Motion for making the Order, that such Lords as shall enter their Protestations with Reasons, shall do the same before Two o'Clock the next sitting Day, and sign them before the House rises, a Standing Order of the House, and that the same be enter'd on the Roll of Standing Orders, instead of the Order of the 5th of *March*, 1641.

A new standing Order concerning the entering Protests,

And the said Order being read, after Debate, the Question was put thereupon, and resolved in the Affirmative.

*Disputant*

*Dissenters'.*

Anno 8. Geo. 1.

1721-22.

Protest against it.

I. For that the standing Order, in relation to the Time of entering Protections, was made above 80 Years since, and was restrictive of an antient Right; and yet in all that Time, till now, has never been thought not to have restrained that Right enough; but on the contrary, whenever longer Time, than is allowed by that Order, has been asked, as it has been done in innumerable Instances, it was never once denied, as we believe; which shews that the constant Opinion of this House has hitherto been, that the Restraint brought upon that ancient Right of the Lords, by that old Order, has been rather too much than too little.

II. The abridging this Right of protesting with Reasons yet more, will necessarily cause the Reasons to be penn'd with less Accuracy, and probably longer than they would have been, had more Time been allowed; which, tho' it may gratify those who differ in Opinion from the Protesters, yet will hurt the Honour of the House, as we conceive, and the Dignity of the Records thereof; for we can by no Means allow, that as much Time should not be afforded to word the Lords Reasons, which are to be entered on the Journals, as would be necessary to the wording of a Pamphlet designed to be printed and published.

III. Because we conceive, that if this farther Restraint does not render the Protesting quite impracticable, yet it must prove very inconvenient and troublesome to the Lords who would make Use of that their undoubted Right; for if a Debate should take up any long Time, as most Debates of Consequence should do, the intermediate Time allowed is, in our Opinion, not sufficient for Lords, who design to protest, to meet and bring their several Reasons together, and afterwards express them with that Clearness, and so unexceptionably as they ought to do; and besides, get them fairly and correctly entered upon the Journal: So that, in our Opinion, they must very often be either excluded from entering and signing their Reasons, or endure a great deal of Hardship and Inconvenience, by denying themselves the usual Rest and Refreshments (as is very obvious without farther Explanation) and be obliged to come long before their ordinary Duty of attending the Business of the House requires; so that, we conceive, this new Restraint will either hinder protesting with Reasons, or amount to a Kind of Punishment on those Lords, who shall make Use of their antient and undoubted Right of Protesting.

IV. There seems to us the less Reason for this Step, because if the Liberty of entering Protections with Reasons be in any Degree abused, the House can, and does, order them, or such Parts of them, as can be reasonably objected

to,



Anno 8. Geo. I. to, to be expunged ; and this Observation is yet stronger, for that of late Precedents have been made of expunging a great Number of Reasons, and of a various Nature, by one general Question ; which is a very expeditious Remedy for any Abuse that can happen.

1721-22.

V. If ever there should be a Time, when the utmost Candour and Fairness is less in Use than at present, this new Restriction on the Right of protesting with Reasons, may open a Gap to many Artifices and unfair Practices in Prejudice of that Right ; Clerks may come later than usual, pretend other Business, or write slower, or use other Shifts to avoid perfecting the Entry of the Reasons till after the Time allowed, especially if they shall think, tho' falsely, they gratify a Majority of the House by so doing, which will make them at least hope for Impunity ; or if not so disposed, they may be, on the other Hand, induced (and not unreasonably) to write faster and more loosely than will become the Journal of this House, that the Entry may be finished within the Time limited. We do not pretend to enumerate all the Ways of making this Alteration of the old standing Order more inconvenient than appears at first Sight, but only specify these few.

VI. We do not think the Right of entering Protestations with Reasons has been of late abused, so as to give Occasion for this new Restriction, tho' it may have been used of late more frequently than formerly ; for which, according to our Opinions, there hath been very proper Occasions given ; and since we cannot but think the Right of protesting with Reasons a valuable and useful Privilege, we must confess our Fears, lest these Restrictions, tho' not now intended so, should end at length in a total Extinction of that Right.

*W. Ebor', Uxbridge, North and Grey, Boyle, Litchfield, St John de Bletsoe, Strafford, Bathurst, Trevor, Aberdeen, Fr. Raffen', Fran. Cestriens', Cowper, Bristol, Foley, Weston.*

Protest against expunging Part of the Protest of the 19th of February last, about the Navy-Debt.

Then the Order was read for taking into Consideration, the Protests entred on the Journal of this House, on the 19th and 20th Days of February last, and the several Reasons in the Protest entred the 19th of February last, against putting off the farther Considerations of the Causes of Contracting so large a Navy-Debt, for three Weeks, being read, it was proposed, ' That from the Word [ *specified* ] in the tenth Line of the fourth Reason, to the End of the said Protest, [ *See p. 233.* ] be expunged. And it being moved to adjourn, the Question was put, Whether this House

House shall be now adjourned till *Monday Morning* next ? Anno .8 Geo. I.  
 it was resolved in the Negative.

1721-22.

Then the Question was put, Whether all that is contained in the said Protest after the Word *specified* in the tenth Line of the fourth Reason, shall be expunged ? It was resolved in the Affirmative; by 45 against 18.

### *Dissentient*

Because when we were giving Reasons against putting off the farther Consideration of the Causes of the Navy-Debt by long Adjournments; probably for the whole Session, as we thought no Reason could be more proper than that the Subject-Matter of that Inquiry was not exhausted, but that very much material Business remained to be considered on that Head; so we did, and do yet conceive, that the following that general Assertion, with an Enumeration of the particular Matters which yet did remain to be inquired into, as well such as arose from Papers already before the House, as others which we were well assured would arise in the farther Progress of that Business (from Papers designed to be called for) did make the said general Argument; which stands expunged, more strong, as well as more fair and candid, by shewing it was well founded upon Particulars; and altho' the House has not thought fit to permit the said Enumeration of Particulars to stand on the Journal; yet, we conceive, we have attained this Advantage, by having enter'd them, that it cannot be objected to us now; that we generally affirmed more Business of Consequence remained for that Committee to do, without being able to instance or specify what in particular.

*W. Ebor, Uxbridge, Strafford, Aberdeen, Fr. Roffen, Fran. Cestriens, Bathurst, Litchfield, Foley, Cowper, North and Grey, Trevor, Boyle, Bristol, St John de Blefbo.*

Then the Reason for the Protest entered the 20th of Feb. last, on Consideration of the State of the National Debt, being read, after Debate the Question was put, whether the entire Reason for the said Protest shall be expunged ? it was resolved in the Affirmative.

### *Dissentient*

Because, we conceive, there is no Instance of expunging Protest against the Reasons of a Protest, unless they were thought to contain something indecent to the House, or alledged Matters of Fact that were false; the first is not presumed in this present Case: And as to the second, the Matter depending upon

1722.

H h

upon

Anno 8. Geo. I. upon Figures, there can be no Dispute, but upon the Method of Calculation ; and if the Lords who signed the Protest did choose to follow the Method observed by the Officers of the *Exchequer*, rather than any other, we do not conceive their Reasons, founded on such Authority, deserved to be expunged ; neither do we think the said Lords were obliged to make Deductions from the *Exchequer* Account, which was laid before the House, without making the proper Additions at the same time ; for it must be agreed, that if the Debt stated in 1717, was but forty-seven Millions eight hundred thousand Pounds ; and in the Year 1720, above fifty Millions, the bringing the Annuities into the *South-Sea* Company may occasion an Increase of about two Millions and a half ; and the Army-Debentures not yet brought to Account, are estimated at about half a Million more ; and the Debt of the Navy is near two Millions ; so the whole appears to be about fifty-five Millions, and the Increase of the National Debt (since it was stated in 1717) might therefore be reckoned about seven Millions ; and deducting the Million of *Exchequer-Bills* lent to the *South-Sea* Company, the real Increase of the National Debt, above what it was stated at in the Year 1717, appears to us, at this Time, about six Millions : But as the Reasons were founded on the Account laid before the House, which kept in the Million of *Exchequer-Bills* as a Debt, and excluded all the other Articles, we conceive they ought not to have been expunged, since the Under-reckoning the Debt was not the Objection made against them.

*Fran. Cestriens', Bathurst, Foley, Cowper, Strafford, St. John de Bletso, North and Grey, Litchfield, Boyle, Guilford, Fr. Roffen', Uxbridge, Weston, Aberdeen, Bristol, Trevor.*

March 5. The Order was read for taking into Consideration the Protest enter'd in the Journal of the 17th of Jan. [See p. 211.] on rejecting the Petition from the *London* Clergy against the Quakers Bill ; and the several Reasons for the said Protest being read, after Debate, the Question being put, that the entire Entry of the Reasons, for the said Protest be expunged ; it was resolv'd in the Affirmative, by 54 Voices against 18.

*Dissentient',*

Protest against expunging the Protest of the 17th Jan. against the Quakers Bill.

Because former Reasons enter'd against some late Resolutions for expunging do, as we conceive, equally extend to justify our Dissent to this Resolution ; and therefore, to avoid Repetition we refer to those Reasons, with this farther, That we do not find, and believe there is not any

Precedent, wherein Reasons for a Protestation have been taken into Consideration by the House so long after they were enter'd, as in the present Case; and the Inconveniences of doing so are, in our Opinion, very manifest.

Anno 9. Geo. I.

1722.

*Strafford, F. Roffen', Boyle, North and Grey, St. John de Bletso, Fran. Cestriens'. Craven, Aberdeen, Uxbridge, Montjoy, Cowper, Bathurst, Guilford, Litchfield, Foley.*

On the 7th of *March*, the King came to the House, and put an End to the Session with a Speech, as usual; and then the Lord Chancellor, by his Majesty's Command, prorogued the Parliament to the 15th: But on the 10th, a Proclamation was issued for dissolving this Parliament.

On the 20th of *April* came on the Election of the sixteen *Scots* Peers, for the ensuing Parliament, when the following were chosen by a great Majority, viz. The Dukes of *Monmouth*, and *Roxburgh*; the Marquess of *Tweeddale*; the Earls of *Sutherland*, *Rothes*, *Bute* \*, *Buchan*, *Haddington*, *London*, *Selkirk*, *Aberdeen*, *Orkney*, *Stair*, *Hopton*, *Deloraine*, and *Ilay*.

Names of the  
Scots Peers elect-  
ed to sit in the  
new Parliament.

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The FIRST SESSION of the SECOND PARLIAMENT of King GEORGE I.

Being the Sixth Parliament of Great-Britain.

ON the 11th of *October* the King came to the House of Peers, and made a Speech to the Parliament, wherein his Majesty inform'd them, That a dangerous Conspiracy had been for some Time formed; and was still carrying on against his Person and Government, in Favour of the Pretender; of which the Discoveries made here, and Informations received from Abroad, had given him most ample and concurrent Proofs: That the Conspirators had provided considerable Sums of Money, engaged great Numbers of Officers from Abroad, and secured large Quantities of Arms and Ammunition: And that had not the Conspiracy been timely discover'd, the whole Nation would, before now, have been involv'd in Blood and Confusion.

The King acquaints the House of the Discovery of Laver's Plot.

1722.

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* He died in January following, and the Earl of Finlater was elected in his Room.

Anno 9. Geo. I.
1722.

Duke of Grafton's Motion for a Bill to suspend the Habeas Corpus Act for a Year.

Debate on the second Reading thereof.

E. of Anglesea.
E. Cowper.
E. of Strafford.
E. Coningsby.
Ld Trevor.
Ld Bathurst.
Ld Bingley.

The King being withdrawn, the Duke of *Grafton* (a) took Notice of the horrid Conspiracy lately form'd, and still carrying on, against his Majesty's sacred Person and Government; shew'd the Necessity of strengthening the Hands of his Ministers, in order to a full Detection and entire Suppression of those traitorous Designs and Practices; and thereupon presented a Bill, to impower his Majesty to secure and detain such Persons, as his Majesty shall suspect are conspiring against his Person and Government. After the first Reading of the said Bill, a Motion was made for reading it a second Time immediately, which was strenuously oppos'd, but the Question being put thereupon, was carried by a Majority of 67 Voices against 24. The Bill being accordingly read a second Time, and committed, the Duke of *Warton* reported the same with Amendments, one of which was to continue the said Power, in Force 'till the 24th of *October*, 1723. This Amendment being read a second Time, there ensu'd a great Debate.

The Earls of *Anglesea*, *Cowper*, *Strafford*, and *Coningsby*, the Lords *Trevor*, *Bathurst*, and *Bingley*, represented, 'That the *Habeas Corpus* Act being, on all Hands, admitted to be the greatest and strongest Bulwark of *English* Liberty, it did not consist with the Wisdom of Parliament, to suspend it without an absolute Necessity. That, indeed, in Cases of actual Rebellion, or intended Invasion, that Act had been, at Times before, suspended; but yet this was done sparingly, by Degrees, and never for above the Term of six Months. That this Consideration put them under a very melancholy Apprehension for the very Being or Effect of that excellent Law; since the Suspension of it for a Year, might be as good a Precedent for the suspending it, on another Occasion, for the Term of Two Years, as any former Precedent was now for the present Suspension. That the horrid Conspiracy, which occasion'd this Suspension, having been discovered five Months before, and divers of the Conspirators imprison'd for it a considerable Time past, it was very unreasonable to suppose, that the Danger of this Plot, in the Hands of an able, faithful, and diligent Ministry, would continue for a Year or more yet to come, and that in so high a Degree as to require a Suspension of the Liberty of the Subject. That, indeed, their just Apprehensions would, in great Measure be removed, if his Majesty, on whose known Equity, Goodness, and Clemency they entirely depended, would remain amongst Us during the whole Time of this Suspension: But that His Majesty not having visited his Dominions abroad these two last Years, would very probably leave the Kingdom

(a) Lord Lieutenant of Ireland.

dom the next Spring. That in his Majesty's Absence this great Power of imprisoning the Subjects at Will, and detaining them in Prison 'till the 24th of *October* 1723, and for as much longer Time as till they can after that, take the Benefit of the *Habeas Corpus* Act, (if they could then do it at all) would be lodged in the Hands of our Fellow-Subjects, who could not be supposed to be above all Prejudices and Partialities, as they were sure his Majesty was; and who, besides, might have private Resentments to gratify. That this Bill did, in Effect, vest the Ministers with an Authority almost as arbitrary and extensive as that of a *Roman Dictator*, since they might inflict even on innocent Persons, who shall have the Misfortune to displease them, a Punishment of above a Year's Imprisonment, which comes little short of Death, and which oftentimes occasions it. That the Dictatorial Power, among the *Romans*, was always laid down immediately after the Occasion for which it was given was over; and it was remarkable, that it was never continued much longer, 'till a little before the *Roman Commonwealth*, from which all other States draw so many Maxims of Government, lost its Liberties. That so long a Suspension of the *Habeas Corpus* Act, weakens the Provision made in the Bill for the Members of either House of Parliament, 'That they shall not be committed or detained, sitting the Parliament, until the Matter be first communicated, and the Consent obtain'd of the Houses respectively,' since it is very probable, the Parliament will not be sitting the greatest Part of the Time, for which this Bill was enacted, would continue a Law; That such is the Weakness of Human Nature, that the Apprehension of what might befall a Member of Parliament while the Parliament is not sitting, might have some Influence on the Freedom of Parliament: That since so long a Suspension was liable to so many Inconveniencies, they thought most adviseable to reduce it to the Term of six Months; at the End of which, if there appeared a Necessity for it, it might be continued six Months longer, as was done before in this very Reign, during the late Rebellion.

They were answered by the Lords *Harcourt*, *Townshend*, and *Carteret*, the Dukes of *Argyle*, *Grafton*, *Wharton*, and *Newcastle*. Then the Question being put to agree with the Committee, it was resolved in the Affirmative.

Ld Harcourt.
Ld Townshend.
Ld Carteret.
D. of Argyle.
D. of Grafton.
D. of Wharton.
D. of Newcastle.

Dissentient

I. Because the Act, commonly called the *Habeas Corpus* Act, is admitted on all Hands to be the great Bulwark of the Liberty of the Subject; and therefore, altho' in Cases of

Protest against it.

of

Anno 9. Geo. I. of actual Rebellion and intended Invasion, that Act has
 1722. been at Times before suspended, yet it was done sparingly
 and by Degrees ; and the utmost Term for which it has
 hitherto been suspended, at any one Time, has been the
 Term of six Months ; which Consideration puts us under a
 very melancholy Apprehension for the very Being or Effect
 of that excellent Law ; since the present Suspension of it,
 for the Term of a Year or more, will be full as good an
 Authority, in point of Precedent, for the suspending it on
 another Occasion for the Term of two Years, as any former
 Precedent is now for the present Suspension during one
 Year and more.

II. The detestable Conspiracy which occasions the present Suspension, having been discovered and signified to the City of *London* above five Months since, and divers imprisoned for it a considerable Time past, we cannot but conceive it to be highly unreasonable to suppose, that the Danger of this Plot, in the Hands of a faithful and diligent Ministry, will continue for a Year and more yet to come, and that in so high a degree as to require a Suspension of the Liberty of the Subject (for so we take it to be) during all that Time.

III. His Majesty, having not visited his Dominions abroad these two last Years, will, very probably, leave the Kingdom the next Spring to that End ; in which Case, this great Power of suspecting and imprisoning the Subjects at Will, and detaining them in Prison till the 24th of *October*, 1723, and for as much longer Time as till they can, after that, take the Benefit of the *Habeas Corpus* Act (if they can then do it at all) will be lodged in the Hands of some of our Fellow-Subjects, who, we are not so sure, will be above all Prejudices and Partialities, as we are, that his Majesty will.

IV. This weakens the Provision made in the Bill for the Lords, and Members of the other House of Parliament, ' That they shall not be committed or detained (the Parliament sitting) without the Consent of the Houses respectively ;' since it is very probable the Parliament will not be sitting the greatest Part of the Time for which this Bill, if enacted, will continue a Law : And such is the Weakness of human Nature, that we cannot be assured, but that the Apprehension of what may befall any Member of Parliament, while the Parliament is not sitting, may have some Influence on the Freedom of acting and debating in Parliament.

V. The Dictatorial Power was always ended or laid down immediately when the urgent Occasion for it was over, and was never continued much longer, till a little before

before that great State (from which all others draw so many Maxims of Government) lost its Liberties. Anno 9. Geo. I. 1722.

*W. Ebor', Aylesford, Gower, Osborne, Fran. Cestriens',
Alburbnam, Guilford, Craven, Cowper, Scarisdale,
Trevor, Hay, Masbarn, Bathurst, Strafford, Anglesea,
Bingley, Litchfield, Uxbridge.*

Then the Bill with the said Amendment was read a third Time, and pass'd without a Division, and sent down to the House of Commons, who after a great Debate † pass'd the same; and on the 17th of this Month the Bill receiv'd the Royal * Assent.

On the 12th of *October* the House presented the following Address to his Majesty;

Most Gracious Sovereign,

WE your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, humbly return your Majesty the Thanks of this House for your Majesty's most gracious Speech from the Throne, and for communicating to your Parliament the dangerous Designs formed, and still carrying on, against your Majesty's most Sacred Person and Government, in favour of a Popish Pretender.

We cannot sufficiently express our Detestation and Abhorrence thereof, or our just Indignation against all such

An Address of Thanks to the King for his Speech relating to the Conspiracy.

' as

† See Chandler's History of the Commons, p. 288.

* The Preamble recites, ' That there had been a traiterous Conspiracy by Papists, &c. for invading this Realm, and to raise rebellions within this Kingdom, to the utter Subversion of the Protestant Religion, our Laws and Liberties: ' And enacts, ' That every Person that is in Prison upon the 10th Day of October, 1722, or after, by Warrant of the Privy-Council, sign'd by six of the said Privy-Council, for High Treason, Suspicion of High Treason, or treasonable Practices, or by Warrant sign'd by any of the Secretaries of State, for such Causes, may be detained in Custody without Bail, until the 24th Day of October, 1723; and that no Judge or Justice of the Peace shall bail or try any such Person, without Order from the Privy-Council, signed by six of the said Privy-Council, till the said 24th Day of October 1723. That the Act made in Scotland, in 1701, for preventing wrongous Imprisonment, in so far as the same may be construed to relate to Cases of Treason, and Suspicion of Treason, be suspended until the said 24th Day of October 1723; and that until the said Day, no Judge, or other Officer of the Law in Scotland, shall liberate, try, or admit to Bail, any Person that is in Prison within Scotland, for such Causes as aforesaid, without Order from the Privy-Council, signed by six of the said Privy-Council. ' But provides, ' That nothing in this Act shall extend to invalidate the ancient Privileges of Parliament, or to the Imprisonment of any Member of either House, during their Sitting, until the Matter be first communicated to the House, and their Consent obtained.'

Anno 9. Geo. I.
1722.

as have, by any Means whatsoever, traiterously endeavour'd to alienate the Affections of your Majesty's good Subjects, or, by maliciously fomenting any of their late Discontents; however occasioned, to raise them to a Spirit of Rebellion.

We think our selves in Duty bound, on this Occasion, to declare our very great Satisfaction in the wise Measures taken by your Majesty, which, by the Blessing of God, have hitherto disappointed the treasonable Projects of all your Enemies, and happily preserved the Peace and Tranquility of the Kingdom.

Could the Enemies of our Peace have procured a Foreign Force to invade us, and, by such Assistance, a Rebellion to have been raised in the Heart of your Kingdom, though we assure our selves so desperate an Attempt must have ended in their own Destruction, it is not yet to be doubted, but that the City of *London*, whose Wealth and Influence have been so constantly employed in opposing Popery and arbitrary Power, would have felt the utmost Efforts of their Fury, and the Kingdom been made a Scene of Bloodshed and Confusion.

Such of your Majesty's good Subjects, as may have been unwarily misled at so critical a Juncture, must now plainly discern the Difference between those great Calamities, from which, by the Blessing of God, they have been hitherto preserved, and the imaginary Dangers with which they have been industriously amused.

We cannot but acknowledge with most grateful Hearts, the inestimable Blessings we have enjoyed under your Majesty's Government during the whole Course of your Reign; and return your Majesty our most unfeigned Thanks for your Majesty's most gracious Declaration, on which we entirely depend, that your Majesty will steadily adhere to our Constitution in Church and State, and continue to make the Laws of the Realm the Rule and Measure of all your Actions. And we humbly beg Leave to assure your Majesty of our most unshaken Fidelity; and that we will, to the utmost of our Power, on all Occasions, stand by and assist your Majesty against all your Enemies whatsoever, both at home and abroad, in Maintenance of your Majesty's undoubted Right and Title to the Imperial Crown of this Realm.

The King's Answer was as follows :

My Lords,

The King's Answer.

I Thank you for this loyal and dutiful Address. So seasonable a Mark of your Zeal and Affection will be of the greatest Service at this critical Juncture; and lay
me

me under the strictest Obligation to use the Confidence
 you repose in me to no other Ends, than the Preservation
 of the Publick Tranquility, and of the Rights and Liber-
 ties of my People." Anno 9. Geo. I.
1722.

Oct. 17. Lord *Carteret* acquainted the House, That the Bishop of *Rocheſter*, the Lord *North and Grey*, and the Earl of *Orrery* †, were committed to the Tower for having enter'd into a dangerous Conspiracy againſt his Maſteſty's Perſon and Government; and that his Maſteſty deſired the Conſent of the Houſe to detain the ſaid Lords Priſoners in the Tower by Virtue of the Act paſſ'd this Seſſion [See P. 244.] for ſuſpending the *Habeas Corpus Act*: To this the Houſe readily conſented.

Oct. 26. The Houſe was informed by Lord *Townſhend*, That his Maſteſty, having juſt Cauſe to ſuſpect the Duke of *Norfolk* was engaged, in the traiterous Conspiracy carrying on, had cauſed him to be apprehended, and did deſire the Conſent of the Houſe, that the ſaid Duke might be committed and detained. A Motion being thereupon made, to conſent that the ſaid Duke be committed and detained accordingly; the ſame was ſtrenuouſly oppoſed by the Earls of *Ayleſford*, *Cowper*, *Angleſea*, *Strafford*, *Coningsby*, and *Uxbridge*; the Lords *Bathurſt*, *Lechmere*, and ſome others: But they were anſwer'd by the Lords Viſcounts *Harcourt*, *Townſhend*, the Duke of *Newcaſtle*, and the Lord *Carteret*: Then the Queſtion being put upon the ſaid Motion, it was carried in the Affirmative, by 60 Voices againſt 28.

Bp of *Rocheſter*,
 Ld *North and Grey*, and E. of
Orrery committed and detain'd
 in the Tower, on
 account of the
 Conspiracy.

Debate on
 a Motion to
 commit and
 detain the D. of
Norfolk on the
 ſame Account.
 E. of *Ayleſford*.
 E. *Cowper*.
 E. of *Angleſea*.
 E. of *Strafford*.
 E. *Coningsby*.
 E. of *Uxbridge*.
 Ld *Bathurſt*.
 Ld *Lechmere*.
 Ld *Harcourt*.
 Ld *Townſhend*.
 D. of *Newcaſtle*.
 Ld *Carteret*.

Different

I. Becauſe we apprehend it to be one of the ancient undoubted Rights and Privileges of this Houſe, that no Member of the Houſe be imprifoned or detained, during the fitting of Parliament, upon Suſpicion of High-Treaſon, until the Cauſe and Grounds of ſuch Suſpicion be communicated to the Houſe, and the Conſent of the Houſe thereon had to ſuch Imprifonment or Detainer; which ancient Right and Privilege is recognized and declared, in plain, expreſs and full Terms, in the Act paſſed this Seſſion of Parliament, to which the Meſſage from his Maſteſty refers.

Which is agreed
 to.

Proteſt againſt it.

II. Becauſe it appears clear to us, not only from former
 1722. I i Prece-

† On the 14th of March following the Earl of *Orrery*, upon an humble Representation made to his Maſteſty, that he was in a very ill State of Health, occaſioned by his long Confinement in the Tower, was admitted to Bail: His Sureties, Lord *Carleton*, and the Earl of *Burlington*, enter'd into Recognizances of 10,000 l. each, and his Lordſhip himſelf into one of 20,000 l. On the 26th of May, the Duke of *Norfolk*, and Lord *North and Grey*, were bail'd by an Order of the Privy Council; and on the 28th of October, 1723 thoſe three Noblemen appear'd on their Recognizances, and were diſcharged.

Precedents, even when no such Law was in being as that above-mentioned, but also from the necessary Instruction of the Proviso therein concerning the Privileges of Parliament, that the House is intitled to have the Matter of the Suspicion communicated to them in such manner as is consistent with the Dignity of the House, and will enable them to deliberate and found a right Judgment thereupon, for or against the Imprisonment or Detainer of the Person concerned: But to maintain, that whilst that Law shall be in Force, it shall be sufficient, in order to obtain the Consent of the House, to communicate a general Suspicion that a Member of the House is concerned in a traiterous Conspiracy, without disclosing any Matter or Circumstance to warrant such Suspicion, is, in our Opinions, an unjustifiable Construction of the said Proviso, and such as wholly deprives the House of the Liberty of giving their free and impartial Advice to the Throne on this Occasion; and such a Construction being made upon a Law, so plainly intended by the Wisdom of this Parliament to assert the Privileges of both Houses, appears to us to pervert the plain Words and Meaning of it, in such a manner as renders it wholly destructive of those very Privileges intended to be preserved.

III. Because his Majesty having, in effect, required the Judgment and Advice of the House touching the Imprisonment and Detainer of the Duke of *Norfolk*; we ought not, as we conceive, either in Duty to his Majesty, or in Justice to the Peer concerned, to found our Opinions concerning the same on any Grounds, other than such only as his Majesty hath been pleased to communicate in his Message: And his Majesty, by his Message, having communicated only a general Suspicion, we think we cannot, without the highest Injustice to the Duke, and the most palpable Violation of one of the most valuable Privileges belonging to every Member of this House, give our Consent to his Imprisonment or Detainer, and thereby make ourselves Parties to, and, in some degree the Authors of such his Imprisonment, until we have a more particular Satisfaction touching the Matters of which he stands suspected; more especially considering the long and unprecedented Duration of the Act above-mentioned, whereby the Benefit not only of the Act commonly called the *Habeas Corpus Act*, but of *Magna Charta* itself, and other valuable Laws of Liberty, are taken from the Subjects of this Realm, and extraordinary Powers are given, to the Persons therein mentioned, over the Liberties of the People for a Twelvemonth and upwards.

IV. Because, we think, it is inconsistent, as well with the Honour and Dignity, as with the Justice of this House, in the Case of the meanest Subjects, to come to Resolutions for

for depriving them of their Liberty, upon other than clear and satisfactory Grounds : But as the Members of both Houses of Parliament are, by the Laws and Constitution of this Kingdom, invested with peculiar Rights and Privileges, of which the Privilege before mentioned is a most essential one, as well for the Support of the Crown itself, as for the Good and Safety of the whole Kingdom ; we cannot, as we conceive, without betraying those great Trusts which are reposed in us, as Peers of this Realm, agree to a Resolution which tends, in our Opinion, to subject every Member of this House, even while the Parliament is sitting, to unwarrantable and arbitrary Imprisonments : And we have the greater Reason to be jealous of the Infringement of this Privilege on this Occasion, because it had been very easy, as we think, for those who had the Honour to advise the framing the said Message, to have communicated to this House the Matter of which the Duke of *Norfolk* stands suspected, in such a manner as might be consistent with the Privileges of this House ; and at the same time avoided any Danger or Inconvenience to the Crown, with regard to the future Prosecution of the said Duke, if any such shall be.

V. It is the known Usage and Law of Parliament, that this House will not permit any Peer to be sequester'd from Parliament, on a general Impeachment of the Commons, even for High-Treason, till the Matter of the Charge be specified in Articles exhibited to this House ; which explains to us the Nature of the Privilege intended to be secured by the Proviso, and is the highest Instance of the Care of this House to preserve it from being violated on any Pretence whatsoever : But, in our Opinions, it must create the greatest Inconvenience and Repugnancy in the Proceedings of the House, to consent that a Peer of the Realm should be imprisoned or detained (the Parliament sitting) on Suspicion of High-Treason only, not warranted, for aught appears to us, by any Information given against him upon Oath, or otherwise, and no particular Circumstance of such Suspicion being communicated to the House.

VI. Because a Resolution so ill grounded as this appears to us, may produce very ill Effects, in the present unhappy Conjunction of Affairs, by creating fresh Jealousies in the Minds of his Majesty's Subjects, who cannot fail of entertaining certain Hopes of the Safety of his Majesty's Person and Government against all his Enemies, from the Advice and Assistance of both Houses of Parliament, whilst they continue in the full Enjoyment and free Exercise of their ancient and legal Rights and Privileges ; but, on the other hand, may be alarmed with new Fears for the Honour and Safety of his Majesty and his Government, by a

Anno 9. Geo. I. Resolution taken by this House for the Imprisonment of a Peer of the Realm, in such a manner as, in our Opinions, is highly injurious to his Person, and also to the Privilege of every other Peer of this Realm; and which may prove of fatal Consequence to the Constitution of both Houses of Parliament.

1722.

W. Ebor', Bathurst, Trevor, Hay, Uxbridge, Oxford, Cowper, Fran. Cestriens', Scarsdale, Lechmere, Hereford, Bingley, Compton, Strafford, Foley, Osborne, Bristol, Guilford, Ashburnham.

November 16. Lord Townshend deliver'd to the House the following Message.

GEORGE R.

The King's Message to the House about the Pretender's Declaration.

" HIS Majesty having been informed, That many scandalous Declarations in Print have been, by several Foreign Posts, transmitted into this Kingdom, in order to be dispersed among his good and faithful Subjects, to poison their Minds and seduce them from their Allegiance; several of those Declarations have, by his Majesty's Order, even since his Majesty received from both Houses of Parliament the last most solemn and acceptable Assurances of their Fidelity, been intercepted; and amongst them an Original in Writing, sign'd, as his Majesty has good Reason to believe, by the Pretender himself. This, together with One of the printed Copies, his Majesty has ordered to be laid before you, as a Matter not unworthy of your Consideration."

B. of Scarbrough.

After the Reading this Message, and the Declaration therein mention'd, the Earl of *Scarbrough* moved, That the House would come to some vigorous Resolutions, in Resentment of the high Indignity offer'd, in the said Declaration, to his Majesty, and the whole *British* Nation; and being seconded by Lord *Harcourt*, a Committee was appointed to draw up the said Resolutions, which were immediately reported and agreed to, viz.

Ld Harcourt.

The Resolutions of the House thereupon.

I. That the Paper, intituled, *Declaration of James the Third, King of England, Scotland, and Ireland, to all his Loving Subjects of the Three Nations, and to all Foreign Princes and States, to serve as a Foundation for a lasting Peace in Europe, and sign'd JAMES REX*, is a false, insolent, and traiterous Libel; the highest Indignity to his most Sacred Majesty King *GEORGE*, our lawful and undoubted Sovereign; full of Arrogance and Presumption, in supposing the Pretender in a Condition to offer Terms to his Majesty; and injurious to the Honour of the *British* Nation,

Nation, in imagining that a free Protestant People, happy under the Government of the best of Princes, can be so insatuated, as, without the utmost Contempt and Indignation, to hear of any Terms from a Popish bigotted Pretender. II. That the Printed Copy of the Pretender's Declaration, mentioned in his Majesty's Message, be burnt by the Common Hangman, at the *Royal Exchange* in *London*, upon *Tuesday* next at One of the Clock; and that the Sheriffs of *London* do cause the same to be burnt there accordingly.

Anno 9. Geo. I.

1722-23.

This done, the Lords sent to desire a Conference with the Commons, at which the Lord *Townshend*, one of the Managers for the Lords, acquainted the Managers for the Commons, That the Lords being desirous always to keep up a good Correspondence with the Commons, had thought proper to communicate to them the Message their Lordships had receiv'd from his Majesty, together with the Declaration therein mention'd, as also their Lordships Resolutions upon this extraordinary Occasion, to which they desired the Concurrence of the Commons. The Commons having agreed thereto, with an Amendment *, both Houses waited upon the King the next Day with a † joint Address on that Occasion.

To which, at a Conference, the Commons agree.

On the 21st of *January* the Earl of *Anglesea* took Notice, ' That at the opening of this Session, his Majesty, in his Debate about the Speech from the Throne, had been pleased to acquaint both Houses with the Discovery of a dangerous Conspiracy, which, for some Time, had been formed, and was still carrying on, against his Majesty's Person and Government; That some of the Conspirators had been taken up and secured, and that Endeavours were used for apprehending others; That one of the principal Plotters [*Christopher Layer*] having, since that Time, been tried and condemn'd, it was somewhat strange, that no Particulars relating to the said Conspiracy had been yet communicated to that House, the rather because several of their Members had been apprehended, and were still confined upon Suspicion of being concern'd in it: ' And therefore his Lordship mov'd, ' That the Judges of the King's Bench be order'd to cause the Tryal of *Christopher Layer*, Esq; to be forthwith printed and published, being first perus'd by the King's Counsel.' This Motion was back'd by the Earls *Cowper*, *Strafford* and *Aylesford*, the Lords *Trevor*, *Bathurst*, and *Lechmere*, who urged, ' That there had been an extraordinary, and, in their Opinion, an unnecessary Delay in the printing and publishing the said Tryal, it being two Months since Mr *Layer* was tryed, and Direction having been given to *Samuel Buckley*, for the speedy publishing of his Tryal, so long since as the 27th of No-

E. Cowper.
E. Stafford.
E. Aylesford,
Ld Trevor.
Ld Bathurst.
Ld Lechmere.

* See Chandler's History of the Commons, p. 269. † Ibid. 263.

Anno 9. Geo. I.
1722-23.

Ld Carteret.

D. of Argyle.
D. of Newcastle.

Protest relating
thereto.

vember last, as appear'd by an Advertisement printed by Authority in the *Gazette*: That no Step having been taken for obtaining the Justice due by the Laws of the Land to any of the other Conspirators, the Publication of the said Tryal ought, in their Opinion, to have been quickened, whereby the Nation would have received such Satisfaction, concerning the said execrable Conspiracy, as could be collected from the said Proceeding; and the House have been enabled to make such Use of it, as should appear necessary for the Honour, Interest, and Safety of his Majesty and his Kingdoms.' To this it was answered by the Lord *Carteret* (a), 'That the Order moved for was altogether unnecessary, Directions having, long before, been given by the Judges of the Court of *King's Bench*, for the printing and publishing of the said Tryal with all convenient Speed; That the said Tryal being of a very large Extent, and several Parts of it, that were taken down in short Hand, requiring a great deal of Time to be put in order, and revised and rectify'd by the Judges, and the Counsel on both Sides, had occasioned the Delay complained of; but that the printing of the said Tryal being now in great Forwardness, the same would be published in a few Days.' His Lordship was supported by the Dukes of *Argyle* and *Newcastle*, and a Question being stated upon the Earl of *Anglesea's* Motion, the previous Question was put, That the said Question be now put, which was carried in the Negative, by 53 Voices against 32.

Dissentient's

I. Because it appeared to us, on the Debate of the main Question, that there has been an unnecessary and affected Delay in the printing and publishing the said Tryal, it being full two Months since *Christopher Layer* was try'd; and Direction having been given for the speedy publishing thereof, so long since as the 27th of *November* last, as appears by an Advertisement, printed by Authority, in the *Gazette*; and it having been allowed in the Debate, that the Delay was extraordinary, and no Fact having been laid before the House sufficient, as we apprehend, to excuse such Delay, we think, that the main Question ought to have been put, as the only Security, in our Opinion, against any farther Neglect, and to prevent any Imputation on the Honour of the House for countenancing or conniving at such Delay.

II. This House having received no Manner of Satisfaction, since his Majesty's most gracious Speech from the Throne, touching the horrid Conspiracy therein communicated; and

NO

* Appointed Lord Lieutenant of Ireland April 1, 1724. And then succeeded as Secretary of State by the Duke of Newcastle.

no Step having been taken, for ought appears to us, either in Parliament, or elsewhere, for obtaining the Justice due by the Laws of the Land to any of the Conspirators (except the said *Laver*) tho' his Majesty was pleased to assure this House, in his Speech from the Throne, that some of the Conspirators were then taken up and secured; we think that the main Question ought to have been put, whereby the Publication of the said Trial might have been quicken'd, and thereby the Nation have received such Satisfaction concerning the said execrable Conspiracy, as could be collected from the said Proceeding; and this House have been enabled to make such Use thereof, as should appear necessary in their Wisdom for the Honour, Interest, and Safety of his Majesty and his Kingdoms.

Anno g. Geo. I.

1722-23.

III. Because we are apprehensive, that the Delay in publishing the said Trial may have contributed to create Jealousies concerning the said Conspiracy, and may have encouraged ill affected Persons to foment the same, to the great Prejudice of his Majesty's Government; and as, in our Opinion, the speedy publishing the said Trial, if the same had been done, might have conduced to the Prevention of those Mischiefs; we also conceive, that the farther Growth of them might have been check'd, if the main Question had been put, and carried in the Affirmative.

IV. Because we think it of great Consequence to his Majesty's Service, that the Publication of the said Trial should have been made under the strictest Security against any Partiality or other Abuse relating thereto; and therefore, we think, the main Question ought to have been put, whereby the Care and Inspection thereof would have been lodged, by Authority of this House, in the Hands of the Judges, to whom it properly belongs; and its falling into any other Hands not so proper, or not so immediately responsible to this House, would have been prevented.

Anglesia, Craven, Cowper, Bathurst, Aylesford, Gower, Osborne, Fran. Cestriens, Weston, Strafford, Hereford, Foley, Lechmere, Trevor, Ashburnham, Compton.

Then the Lord *Bathurst* mov'd, 'That the Judges of the King's Bench should attend in their Places on *Thursday* next, and that the King's Counsel who were concerned in the Trial of *Christopher Laver*, and also the Counsel for the said *Laver* at the said Trial, and Mr *Samuel Buckley*, and the Person or Persons who took the said Trial in short Hand, should attend at the Bar of this House at the same Time. This Motion was supported by the Lord *Lechmere*, the Earls of *Strafford*, *Coningsby*, *Bristol*, and *Cowper*; but was oppos-

Debate on a Motion for the Judges, Counsel, &c. concern'd in *Laver's* Trial, to attend the House.

Ld Lechmere.
E. of Strafford.
E. Coningsby.
E. of Bristol.
E. Cowper.

Anno 9. Geo. I. ed by the Lords *Carteret* and *Onslow*, and the Duke of *Newcastle*; so that the Question being put thereupon, it was carried in the Negative, by 48 Voices against 29.

Protest on the said Motion's passing in the Negative.

Dissentient'

I. Because the House having resolved, that the Question for ordering the printing the Tryal of *Layr* should not now be put, we are of Opinion, that it is thereby made necessary, for the Honour of the House, that the Occasion of the Delay should be inquired into; for without such Inquiry, we are apprehensive, that the Proceedings of this House may be misconstrued as tending to countenance such Delay.

II. Because we think it the Right of this House to inquire into all Neglects or Abuses which concern the Publick; and tho' it was objected in the Debate, that such Inquiry might carry some Imputation on the Judges, or other Persons concerned; we think that that Objection may be equally assigned against all Inquiries; but is inconsistent with the Honour and Dignity of the House, and ought not, as we conceive, to be put in the Balance with the Honour of the House and the publick Service, to which the Question, in our Opinion, has an apparent Tendency.

Anglesea, Aylesford, Alsburnham, Fran. Cestriens', Brooke, Craven, Strafford, Compton, Weston, Lechmere, Gower, Trevor, Cowper, Osborne, Bathurst, Foley.

Debate on the Protest of Jan. 21. relating to the printing of *Layr's* Trial.

Jan. 29. The Order was read, for taking into Consideration the Protest enter'd in the Journal of this House upon *Monday* the 21st of this instant *January*; and the several Reasons in the said Protest being read, a Motion was made, That it is a groundless Assertion in the Protest enter'd upon *Monday* the 21st of this instant *January*, that it appeared in the Debate, that there had been an unnecessary and affected Delay in the printing and publishing the Trial of *Christopher Layr*; and the utmost Indignity to this House to suggest that any Question was necessary to have been put, for preventing an Imputation on the Honour of this House, for countenancing or conniving at such Delay.

And a Question being stated thereupon, it was proposed, after the Word *Debate*, and before the Word *that* to add these Words, *viz. to the Lords who signed the said Protest*. Which being objected to, the Question was put, whether those Words shall be made Part of the Question? It was resolved in the Negative. Content 34. Not Content 64.

Then it was proposed, after the Word *Question*, and before the Words *was necessary*, to insert these Words, *viz. in the Opinion of the same Lords*. Which being likewise ob-

jected to, the Question was put, whether those Words should be made Part of the Question? It was resolved in the Negative. Then the foregoing stated Question was put; and it was resolved in the Affirmative.

Anno 9. Geo. 1.
1722-23.

Dissentients'

I. Because the Assertion and Suggestion in the Protestation intended to be censured by the Resolution are qualified, as the Amendments offered would have stated them, if admitted, by being restrained to the Opinion of the Lords who signed the Protestation; but those Restrictions are wholly omitted in the Resolution: And we are clearly of Opinion, that if the Assertion and Suggestion had been set forth in the Resolution, as they stand in the Protestation, they could not have been censured with any Colour of Justice; but that the said Omission being, as we conceive, of a Circumstance extremely material, we think the Censures contained in the Resolution are not applicable to the Assertion and Suggestion found in the Protestation, but to such as are of a very different Nature.

Protest relating
to the said Pro-
test.

II. The restraining the Assertions used in Protestations to the Apprehension or Opinion of the Lords protesting, where it contradicts the Opinion of the House, is, as we conceive, so much of the Essence of a Protestation with Reasons, that of the great Number of Instances of such Protestations standing on the Journals of this House, not one would be found regular among them, if that due Caution and Respect to the Opinion of the Majority was omitted; and therefore it seems clear to us, that the like Censure might be as justly passed on all the Protestations with Reasons, that were ever enter'd, if they were recited and represented in the same Manner as we conceive this to be.

Brooks, Fran. Cestriens', Scarfsdale, Cowper, Craven, Montjoy, Alsburnham, Trewor, Litchfield, Exeter, Guilford, Osborne, Hereford, Uxbridge, Strafford, Anglesea, Lechmere, Compton, Foley, Bathurst, Hay, Aberdeen, Gower, Bingley.

Then a Motion was made, That the said Trial has been printed and published with as much Expedition as the Length and Nature of the said Trial, and the careful Perusal and Examination thereof by the Judges, could admit of, and in as little Time as has been generally accustomed in the like Cases; and that it is an unjust Insinuation that the Authority of this House was wanting for lodging the Care and Inspection of the said Trial in the Hands of the Judges, or that there was any Danger of its falling into any other

1723.

K k

Hand,

Ann^o 9. Geo. I. Hands, or that the same had been under the Direction of any others whatsoever besides the Judges.

1722-23.

And a Question being stated thereupon, it was proposed to leave out these Words, *And that it is an unjust Insinuation, that the Authority of this House was wanting for lodging the Care and Inspection of the said Trial in the Hands of the Judges, or that there was any Danger of its falling into any other Hands, or that the same had been under the Direction of any others whatsoever besides the Judges.* Which being objected to, the Question was put, whether those Words shall stand Part of the Question? It was resolved in the Affirmative, by 62 against 35.

Dissentient

Farther Protests relating to the printing Layer's Trial.

Because we conceive it to be contrary to the Nature and Course of Proceedings in Parliament, that a complicated Question consisting of Matters of a different Consideration should be put, especially if objected to, that Lords may not be deprived of the Liberty of giving their Judgments on the said different Matters, if they think fit.

*Scarfsdale, Aberdeen, Exeter, Brooke, Osborne, Hay, Trevor, Anglesea, Cowper, Fran. Cestriens', Montjoy, Foley, Alburnham, Strafford, Gower, Craven, Bathurst, Guilford, Litchfield, Lechmere, * Bingley, Uxbridge, Compton, Hereford.*

Then the main Question was put, that the said Trial has been printed and published with as much Expedition, as the Length and Nature of the said Trial, and the careful Perusal and Examination thereof by the Judges, could admit of; and in as little Time as has been generally accustomed in the like Cases; and that it is an unjust Insinuation, that the Authority of this House was wanting for lodging the Care and Inspection of the said Trial in the Hands of the Judges, or that there was any Danger of its falling into any other Hands, or that the same had been under the Direction of any others whatsoever besides the Judges? It was resolved in the Affirmative, by 58 against 32.

Dissentient

I. Because when a Question was moved, on the twenty-first of this Instant, in order to appoint a Day for this House to inquire, if the printing Layer's Trial was dispatched with all proper Expedition; or if not, where the Fault lay; which would naturally have led us to have seen if it had fallen into any other Hands than it should have done; though we thought it highly reasonable, the Majority of the House then did not, and we were yet willing to have gone into the same

* Chancellor of the Duchy of Lancaster.

same Examination ; but we cannot conceive it to be fit or agreeable to the Dignity or regular Course of Proceedings in this House to vote or resolve so many Matters of Fact, as are contained in this Resolution, without any Examination at all, or any Evidence given to support them, and which in their Nature, we think, cannot be within the Knowledge of any one Lord present in the Debate.

Anno 9. Geo. I.
1722-23.

II. As for the Insinuation with which the Protestation is charged by this Resolution, we do not apprehend the Protestation to be justly liable to that Charge ; but supposing it to be so, we cannot yet but be of Opinion, that the permitting that Matter to have been fully inquired into, would have been the properest and best Method of preventing or answering that Insinuation.

Litchfield, Foley, Gower, Lechmere, Guilford, Scarsdale, Trevor, Bingley, Brooke, Strafford, Compton, Exeter, Craven, Cowper, Aberdeen, Hay, Uxbridge, Osborne, Anglesea, Fran. Cestriens', Montjoy, Bathurst, Hereford.

Then a Motion was made, That this House, not capable of doubting of the Truth of the traiterous Conspiracy communicated to them by his Majesty in his Speech from the Throne, has ever since that Time received very great Satisfaction from some convincing Proofs touching the same, and is firmly persuaded, that such farther Satisfaction will be yet in due Time given, as must render it impossible for any one to doubt thereof ; and a Question being stated thereupon, after Debate, the previous Question was put, whether the said Question shall be now put ? It was resolved in the Affirmative.

Dissentient :

I. Because to the best of our Apprehensions, no Part of the Protestation gave Occasion for the putting of such a Question ; for it was, as we conceive, clearly admitted in the Protestation, that his Majesty's most gracious Speech from the Throne had given Satisfaction as to the Truth of the Conspiracy in general ; and the excepting *Laver's* Trial therein did plainly allow, that the said Trial had, as far as that went, opened the Particulars ; and yet the Resolution, as we take it, carries with it an Insinuation, that the Protestation had raised a Doubt concerning the Truth of the said traiterous Conspiracy ; which Insinuation is, in our Opinion, entirely groundless.

II. The said several Resolutions importing Censures, as we conceive, on the said Protestation, and being not warranted

Anno 9. Geo. I.
1722-23.

ranted by more than one Precedent, that we can find, on the Journals of this House; and the Liberty of Protesting with Reasons being an unquestionable Right and essential Privilege of the whole Peerage, we are of Opinion that the said Resolutions tend to discountenance and discourage the due Liberty of Protesting; and in that respect may be, as we apprehend, of dangerous Consequence.

Litchfield, Osborne, Guilford, Compton, Batburst, Bingley, Hay, Montjoy, Brooke, Fran. Cestriens, Craven, Angelsea, Foley, Lechmere, Scaridale, Aberdeen, Strafford, Hereford, Cowper, Uxbridge, Exeter, Gower.

Feb. 16. Report was made from the Committee of the whole House, of the Amendments made to the Bill for punishing Mutiny and Desertion; and the Amendment, in relation to the Number of Forces to be allowed, which was to specify that 16,449 effective Men, and 1815 Invalids should be the Number instead of all the Forces then on Foot, being read a second Time, the Question was put, whether to agree with the Committee in the said Amendment? It was resolved in the Affirmative. Content 70, Not-Content 25.

Protest against
the Number of
Land-Forces, for
the Year 1723.

Dissentient

I. Because, as we conceive, the keeping an Army of regular Troops in this Kingdom, under Martial Law, consisting of a greater Number than what we take to be necessary for the Guard of the King's Person, and Defence of the Government, is of the most dangerous Consequence to the Constitution of this Kingdom; and, in our Opinion, may bring on a total Alteration of the Frame of our Government from a legal and limited Monarchy to a despotick; and we are induced to be of this Judgment, as well from the Nature of Armies, and the Inconsistency of so great a Military Power and Martial Law with the Civil Authority, as from the known and universal Experience of other Countries in *Europe*, which by the Influence and Power of standing Armies, in time of Peace, have from limited Monarchies, like ours, been changed into absolute: for which Reason we cannot give our Consent to this Amendment, whereby the present Number of Troops amounting in the whole (Invalids included) to fourteen thousand odd hundred Men (which we think abundantly sufficient for all good Purposes) will be increased to near four thousand more, although there be at this Time no Ground to apprehend an Invasion from a foreign Enemy, or, as we believe, any Insurrection or Rebellion at home.

II.

II. Because that which seems to have given Rise to this Augmentation of the Army, is the late treasonable Conspiracy which his Majesty, at the opening of this Session, acquainted his Parliament with; and that Conspiracy having been discovered about eight Months since, and the farther detecting and punishing the Conspirators having been ever since in the Hands of a faithful and vigilant Ministry, we cannot think it at all probable the Conspiracy should be still carrying on; or if any Dregs of it should be yet remaining, that the Government cannot be easily secured by the Civil Authority, assisted with so great a Number of Troops as are at present on Foot; and therefore we cannot think ourselves justifiable to the Kingdom, whose Rights and Liberties we are entrusted to preserve, had we given our Votes for this Augmentation of Troops, when no evident Necessity or just Occasion appeared to us for such an Increase.

III. Because the Act passed this Session, to enable his Majesty to apprehend and detain in Custody any Person suspected of being engaged in any treasonable Conspiracy, for above twelve Months (tho' that Power had never been granted to the Crown before, above half that time at once, and that when there was an actual Rebellion or an expected Invasion) was so great a Power added to the former Authority of the Crown, that we cannot but think altogether sufficient to prevent any Mischiefs from treasonable Plots or Practices, which may be attempted or carried on by any rebellious or disaffected Persons, without increasing the Army, which in its present State is not submitted to, but as necessary for avoiding a greater Evil.

IV. Though the Augmentation by this Bill is only for one Year, yet, we fear, this will be a Means for the continuing them in Perpetuity; for we think it probable there will at all times hereafter be easily found as good Reason for continuing this Increase, as there is now for making it.

V. Because, we think, the greatest and only lasting Security to his Majesty and his Government is in the Hearts and Affections of his Subjects; and if the Disaffection or Discontents, which have of late happen'd from some unfortunate Proceedings, are thought by any to be an Argument for raising more Forces, we think it the Duty of all good Subjects who wish well to his Majesty and our present happy Establishment, to use their best Endeavours for curing those Discontents by removing or lessening the Occasion thereof, and consequently that there should not be an Augmentation of the Army, which is already sufficiently burthensome to the Subject, both by the great Charge of maintaining them, and by the Uneasiness to the Place where they are quartered, because thereby the Charge to the Subject will be considerably

Anno 9. Geo. I.
1722-23.

siderably increased; which, as we apprehend, ought most carefully to be avoided in our Circumstances, when the Load of Taxes is already so great, and the Kingdom involved in so immense a Debt, that nothing but the most prudent Oeconomy and good Husbandry can give us any probable Prospect of easing it; and therefore not being convinced of any real and just Grounds for such Increase of Troops, do fear, that this will not take away or lessen, but rather increase the Discontents and Disaffection of the People; and, in that respect, weaken his Majesty's Government in a greater degree than it will be strengthen'd by this Addition of Forces, allowing something for the Possibility of false Musters.

W. Ebor', Scarfsdale, Poulett, Asbburnham, Aberdeen, Hay, Oxford and Mortimer, Osborne, Bristol, Litchfield, Gower, Uxbridge, Foley, Montjoy, Compton, Bathurst, 'Strafford, Fran. Cestriens', Trevor, Cowper.

Motion for Pancier and Skene to attend, on account of L. Strafford and Ld Kinnoul being mentioned in Pancier's Deposition to be concern'd in the Conspiracy.

March 9. Complaint being made to the House, 'That in a Paragraph of the printed Report from the Committee appointed by Order of the House of Commons to examine *Christopher Layer* and others, and to whom several Papers and Examinations laid before the House, relating to the Conspiracy, mentioned in his Majesty's Speech at the opening the Session to be carrying on against his Person and Government, were referred, the Lord *Strafford* and Lord *Kinnoul* are mentioned in the Deposition of *Andrew Pancier*, that he had been told by one *Skene* (now in Custody) that the said Lords knew of an Invasion intended by Forces from abroad, and were concerned in the Management of the Conspiracy here:

And thereupon a Motion being made, That the said *Andrew Pancier* and — *Skene* be immediately sent for to attend at the Bar of this House: After Debate the Question was put, that *Andrew Pancier* and — *Skene* be immediately sent for to attend at the Bar of this House? It was resolved in the Negative. Content 29. Not-Content 64.

Dissentient'

Protest on their Attendance being refused.

I. Because the Earl of *Kinnoul* and the Earl of *Strafford* having severally complained to the House, that they find themselves reflected on in a printed Deposition of one *Andrew Pancier*, wherein he deposeth, That one *Skene* (now in Custody) had acquainted him, among other Things, that the said Earls knew of the late Conspiracy, and were concerned in the Management of it here; and the said Earls

Earls alledging; that they did not see by the Report, in Anno 9. Geo. 1. which that Deposition is found, that the said *Skeene*, tho' in the Hands of the Government, had been so much as questioned touching the said Hearsay (which Observation we find to be true) we think it highly reasonable to have complied with the Motion and Request of the said Lords; That the said *Pancier* and *Skeene* might be examined at the Bar of this House in relation to that Matter only; the like Request, for the better clearing the Reputation of any noble Lord, when he hath thought it unjustly aspersed, having never been denied, that we know of; but, on the contrary, it was, not long since, granted in the Case of the Earl of *Sunderland*, tho' the Examination which he thought reflected on his Honour, was not come into Print when he made his Complaint; which, according to our Judgment, was not so strong a Case, for granting the Motion, as the present is.

1722-23.

II. Because the said Deposition, as far as it is printed, containing nothing but what one Deponent heard another say (except as it contains a Charge on *Skeene* for saying it) we think it was very natural and proper, as well for the Advancement of Justice, as for the Vindication of the noble Lords requesting it, to trace the said Hearsay, if possible, to the Fountain-Head, or at least so far as to know, from the Person charged with relating it, whether he would deny his having related it; or if not, whether he would confess the Falsity of what he had so related, or undertake to make it good by his own Testimony, or otherwise.

III. We think there could be no Inconvenience in examining, as moved, to find whether there was any, and what Foundation for this Hearsay; it not being an Anticipation of the Course of Justice (as examining a Part of the Evidence against any Man, or a Part of an Accusation, would be) since the swearing what one Man said of a third Person is in no sort Evidence, either in Law or Reason, to support a Conviction, or even to ground an Accusation upon; in any Form whatsoever.

IV. Since a mere Hearsay, being no Evidence in the least degree, cannot be made a Foundation for any legal Proceeding, it is impossible for any noble Lord, whose Honour may be affected by it, to hope to clear himself on any Trial, or other like Opportunity that can be given him to make his Defence; and therefore, since there is no other Method, that we can think of, so proper or effectual, in our Opinions, as an Examination of the Nature of that moved for, we think it ought to have been ordered; and that every noble Lord may possibly, in Time, be hurt by the Consequence of this Precedent.

Anno 9. Geo. I.
1722-23.

V. We cannot think that the examining, as moved for, into this Hearsay only, could have made any Difference with the other House, since it is inconceivable by us, that any Number of Gentlemen, who may have by Accident (for we hope it is no otherwise) in setting forth the Deposition of *Pancier* as a Charge against *Shene*, happened to asperse the Reputation of some of the Peers of the Realm, could resent either that these Lords should desire, or the House permit them to clear themselves as soon and as effectually as possible of that Hearsay.

Strafford, Aylesford, Poulett, Bristol, Bathurst, Scarfsdale, Willoughby de Broke, Litchfield, Fran. Cestriens, Guilford, Anglesea, Foley, Exeter, Cowper, Berkeley of Stratton, Compton, Osborne, Arundell, Craven, Bruce, Hay, Uxbridge, Weston, Bingley.

The Papers relating to the Plot laid before the House.

A Conference with the Commons on that Occasion.

March 15. Mr. *Metbuen**, from the Commons, acquainted the House, ' That his Majesty had been pleased to give Leave, That the Letters and Papers relating to the Conspiracy, which had been laid before that House, pursuant to their Address to the King for that Purpose, might be communicated to their Lordships. In Consequence hereof a Conference was appointed, and Mr *Pulteney*, Chairman of the Committee appointed to be Managers for the Commons, acquainted their Lordships, ' That the Commons, upon ' Consideration of a Report from a Committee of their ' own Members, appointed to examine *Christopher Layer* ' and others, as also several original Papers and Letters (upon ' their humble Application to his Majesty) laid before them, ' being entirely satisfied, That a detestable and horrid Conspiracy has been formed and carried on by Persons of ' Figure and Distinction, for deposing his Majesty, and ' placing a *Papish* Pretender upon the Throne, and being ' fully convinced, that several treasonable Correspondences ' have been entred into by the said Traytors for soliciting ' a Foreign Force to invade these Kingdoms ; and that ' Endeavours have at the same time been used by them ' for raising Insurrections, and inciting a Rebellion at home ; ' and the Commons finding with Horror and Astonishment, ' that some of the Conspirators had arrived to such a ' Height of Wickedness, as to engage in a villainous and ' execrable Design of laying violent Hands on his Majesty's ' most sacred Person, were thoroughly sensible, that nothing could so effectually contribute to the Safety of his ' Majesty, and the Preservation of our present happy Establishment in Church and State, as a perfect Unanimity ' between the two Houses of Parliament, and had therefore ' desired

* Treasurer of the Household ; created a Knight of the Bath, in 1725.

desired this Conference to communicate the said Report to their Lordships, together with the original Papers and Examinations refer'd to therein. •

Anno 9. Geo. I.
1722-23.

That as it might be necessary to the Commons in their farther Proceedings, to have Recourse, from time to time, to the said original Papers and Examinations, they did desire, that upon Application to be made to their Lordships, the same might be returned to them. Concluding, that the Commons did not doubt but that the same Zeal which actuated them, would likewise animate their Lordships in the vigorous Prosecution of these wicked Conspirators, till they were brought to exemplary Justice, and until the united Resentments of both Houses of Parliament should convince the whole World, of the Danger there is for the most subtle Traytors to attempt the Subversion of this Government, or endeavour to deprive a free and happy People of the Blessing of his Majesty's Reign, and the Succession of his Royal Family, upon which their Religion, Laws and Liberties, entirely depend.

Mr *Pulteney* (a) also left with the Lords a Trunk lock'd up, containing the original Papers, Letters and Examinations; and the Managers being returned, Lord *Townshend* (b) reported the said Conference, whereupon their Lordships ordered, I. That the said Report and original Papers be referred to a Committee of Nine, to be chosen by Ballot next Day; and that the said Trunk and Key be deliver'd to the Lord Chancellor, till the same be dispos'd of by Order of the House. II. That the Managers of the Conference be a Committee to prepare what might be fit to be offered to the Commons, by way of Answer to so much of what was deliver'd to them at the said Conference relating to the said original Papers.

The Lords chuse
a Committee of
Nine to inquire
into the Plot.

Accordingly, on the 16th of *March*, the Lords proceeded by Ballot, to the Choice of Nine Peers to be a Committee to inquire into the said Conspiracy, and upon a Scrutiny, the following List was carried by a vast Majority, viz. The Dukes of *Dorset* (c) and *Montrose*; the Earls of *Scarborough*, *Lincoln* (d) and *Ilay* (e); the Viscounts *Lonsdale* and *Torrington*; the Bishops of *Lincoln* (f) and *Salisbury* (g).

Names of the
said Committee.

1723

L 1

March

(a) Created Earl of Bath, July 13. 1742.

(b) Appointed Lord President of the Council, June 11. 1720.

(c) Made Lord Steward of the Household, May 30. 1725.

(d) Appointed Constable of the Tower of London, December 31. 1722. in the Room of the Earl of Carlisle.

(e) Made Keeper of the Privy-Seal in Scotland, April 10. 1721.

(f) Dr Gibson, translated to London, the 24th of May following, on the Death of Dr Robinson.

(g) Dr Willis, translated to Winchester the 21st of September following, on the Death of Dr Trimmell.

Anno 9. Geo. I. *March 21.* Complaint was made to the House by the
 1722-23. Earls of *Scarfsdale, Strafford, Cowper*; the Lords *Craven,*
Gower, Bathurst, and Bingley, That in the Examinations of
 The Lords Scarfsdale, Strafford, Cowper, Craven, Gower, Bathurst, and Bingley, complain of their Names being mention'd in the Report of the Committee of the House of Commons relating to the Plot.

Christopher Layer, in the printed Appendixes referred to in the Report from the Committee appointed by the House of Commons to examine *Christopher Layer* and others, it is set forth, That one *John Plunkett* told him the said *Layer,* that the said Lords were of a Club or Meeting called, in some of the said *Plunkett's* Letters, *Burford's Club.* The said Lords severally declar'd the same to be false and groundless; and Earl *Cowper* in particular complain'd, 'That little Regard had been shewn to divers Members of that illustrious and noble Assembly, whose Honour and Reputation had been attack'd, by being mentioned in the Report from the Secret Committee of the House of Commons, being represented, upon meer Hearsay, as privy to treasonable Designs against the Government. That for his own Part, as the late Queen *Anne,* of glorious and immortal Memory, had thought fit to raise him to the Dignity of a Peer, how unworthy soever he was of that Honour, he thought it a Duty incumbent upon him, to defend the Rights and Privileges of the Peerage of *England,* which they held by the fundamental Laws of the Land, and were confirmed to them by *Magna Charta.* That after having, on so many Occasions, and in the most difficult Times, given undoubted Proofs of his hearty Zeal and Affection for the Protestant Succession, and of his Attachment to his Majesty's Person and Government, he had just Reason to be offended, to see his Name bandy'd about in a * List of a Chimerical Club of disaffected Persons,

* The same Day the following Declaration appear'd in Print.

The Declaration of WILLIAM Earl COWPER, shewing, that the Matters contained in some Hear-says, relating to him, in the Examinations of CHRISTOPHER LAYER, are false and groundless.

' Tho' Hear-say does not affect any one, either in Law or Reason, yet it deserves Contradiction, where the Truth will bear it, especially if printed: And therefore finding that *Layer* in his Examinations of the 19th of January and 4th of February last, hath said, That one *Plunkett* told him, (as explaining what was meant by *Burford's Club*) that Lord *Corry* was Chairman; and that Lord *Cowper,* and seven other Lords, and six Commoners named, were of that Club; and that this Club met Monthly, as he, *Layer,* thought, at one another's Houses: And not doubting but my Averment will be believed before any Hear-say, especially from one in *Layer's* sad Circumstances; I do hereby declare and affirm upon my Honour, That I do not know, or believe, and never heard before the said Examinations were talk'd of, that there was any such Club or Meeting: That as to three of the Commoners named, viz. Sir H. Goring, Mr Dawkins, and Mr Shippen, I do not know them so much as by Sight: and as for two of the remaining three Commoners, viz. Sir Constantine Phips and General Webb, I have not been in their, or either of their Companies

Persons, printed in the said Report, on the bare Hear-say Anno 9. Geo. 1.
of an infamous Person, notoriously guilty of Prevarication; 1722-23.
and who, in the Opinion even of the Secret Committee, in
order to magnify the Number of the Pretender's Friends,
did, in several Lists, insert the Names of Persons as well
affected to the Pretender's Service, without having the least
Authority for so doing; which alone was sufficient to give
an Air of Fiction to the whole Conspiracy.' Hereupon his
Lordship mov'd, 'That *John Plunkett*, now in Custody, be-
ing the Person who, *Laver* says, in one or more of his
Examinations, told him, that several Lords of Parliament,
therein named, were of a Club or Meeting called, in some
of the said *John Plunkett's* Letters, *Burford's* Club, be
forthwith brought to the Bar of this House, to be examined
touching the said Matter only? This Motion being second-
ed, the Lord *Townshend* said, 'He was extremely sorry to
find his Lordship should lay so much Stress, and so highly
resent his being mention'd in the Report; that his Lord-
ship's Name, with several others, being Part of an Exami-
nation, it was absolutely necessary it should be mention'd:
That at the same Time, the Committee had declared, they
were entirely satisfied of his Lordship's Innocence, so that
his Lordship's Reputation could not have suffer'd upon that
Account. But, that on the other Hand, he was much sur-
prized to find that a noble Peer, whose Abilities and Merit
had justly so great Weight in that illustrious Assembly,
should, upon a trivial Circumstance, ridicule as a Fiction, a
horrid and execrable Conspiracy, supported by so many con-
curring Proofs as amounted to a Demonstration; and from
a false, trifling Particular, infer, that no Part of it was
true.' Lord *Bathurst* answer'd the Lord *Townshend*, and
was supported by the Lord *Craven*, and the Earl of *Kinoul*,
who insinuated as if the main Drift of the Plot was a base
1723. L 1 2 Contrivance

'Companies at any Time within Sixteen Years last past: And as to
the Lords, I never met them, or any of them, but either acciden-
tally on Visits of Ceremony, or in the Time of Parliament, and
that with other Lords on the Business of Parliament only: And for
one of the said Commoners, whom I am acquainted with; viz.
Mr *Hatcheson*, I never once was at any Meeting with him together
with any of the said Lords or Commoners. And whereas *Laver* in
his Examination of the 19th of September last, said, That Lord
Orrery told him, That Lord *Cowper* told him (Lord *Orrery*) that
200 Tories and 90 Grumbletonians, would try their last Effort in
the House of Commons; and in another Examination of the 21st of
the same Month, *Laver* repeats the same, except that he uses the
Words, Angry Whigs, instead of the Word Grumbletonians: I do
hereby declare, and affirm upon my Honour, That I never said so
to Lord *Orrery*, nor to that Effect, nor any Thing like it: And I
do therefore verily believe that Lord *Orrery* never said that I did.'

C O W P E R.

Anno 9. Geo. I. 1723.
 E. of Strafford.
 Lord Cadogan.

Contrivance of their Enemies, to blast their Honour and Reputation, and to render the best Patriots useless to their Country, by making them obnoxious. The Earl of *Strafford* having express'd his just Resentment with more Warmth than the rest, Lord *Cadogan* said thereupon, 'That for his own Part, tho' his Name was often mention'd in the Report, he never troubled himself about it; but, in his Opinion, there was Reason to believe some People were fore, when they winched so much at the least Touch.' The Earl of *Strafford* repell'd this Reflection, with a great deal of Vivacity, and said, 'He was as whole and sound as any in that illustrious Assembly; but as he had the Honour to have more ancient Noble Blood running in his Veins, than some others, so, he hoped, he might be allow'd to express a more than ordinary Resentment against Insults offer'd to the Peerage.' Some Members apprehending the Issue of this warm Debate, call'd for the Question, which being put upon the Earl *Cowper's* Motion, was carried in the Negative by 81 Voices against 26.

Dissentient

Protest on Plunket's Attendance being refus'd.

'And for Reasons we refer to those enter'd on a Protestation made on the 9th Day of this Instant *March*, to a Resolution of the like Nature.

Scarsdale, Aylesford, Bathurst, Montjoy, Weston, Compton, Exeter, Bingley, Uxbridge, Gower, Hay, Cowper, Foley, Craven, Litchfield, Dartmouth, Strafford, Poxlett, Guilford.

L^r farther examined.

Then the Duke of *Dorset*, Chairman of the Secret Committee moved, That the said Committee might have Leave to examine Mr *L^r*, as to some material Things, relating to the Conspiracy, absolutely necessary for them to be satisfy'd in; but tho' this Motion was oppos'd by the Earl *Cowper*, and some others, yet it was carried without a Division; and, the next Day the Lords Committees went to the Tower, to examine Mr *L^r*.

Petition of the Bishop of Rochester for Directions how to proceed about the Bill against him in the House of Commons.

•*March* 29. A Petition of *Francis* Lord Bishop of *Rochester* was, by the Lord *Bathurst*, presented to the House, setting forth, 'That, by Order of the House of Commons, he has receiv'd a Copy of a Bill for inflicting certain Pains and Penalties upon him for supposed Crimes, of which he is innocent: That, by another Order of the said House (upon the Petitioner's Letter to the Speaker) Council and Solicitors are allowed to come to him, to assist him in the making his Defence; but the Petitioner finding, by a Standing Order of this most Honourable House, of the 20th of *January*, 1673, that no Lord may appear by Council before the House,

House of Commons, to answer any Accusation there, he is under great Difficulty; and that he may not do any Thing which may give Offence to their Lordships, and be derogatory to the Rights of Peerage, in which, as a Member of this House, he has the Honour to partake, the Petitioner humbly prays their Lordships Directions for his Conduct in this Behalf.

Anno 9. Geo. I.
1723.

Then the Standing Order being read, a Motion was made, and the Question was put, that the Bishop of *Rocheſter* being a Lord of Parliament, ought not to answer or make his Defence by Council or otherwise in the House of Commons, to any Bill or Accusation there depending.

Debate thereon.

This Motion was strongly supported by Lord *Lechmere*, the Earls *Cowper* and *Strafford*, the Lords *Trevor* and *Bathurst*, who urg'd, 'That the House of Peers being the highest Court of Judicature, no other Court ought to intrench upon their Privileges. But the Lord *Macclesfield**, the Lords *Carteret* and *Townshend*, the Dukes of *Wharton* and *Argyle*, the Earls of *Peterborough* and *Coningsby*, and the Lord *Harcourt* alledged, 'That, in this Affair, the Commons did not act as a Court of Judicature, but as a Part of the Legislature; of which they were as much a Part, and to which they had as much a Right as the Lords themselves.' The Duke of *Wharton* added, 'That the Matter before them needed no great Debate: for the Bishop having already applied to the House of Commons, in a Letter to their Speaker, for Council to be assigned him, it was preposterous now for him to pray the Lords, not to give him Leave to be heard before the Commons, which was the Drift of his Petition.' Hereupon the Question being put upon the Motion, it was resolved in the Negative, by 78 Voices against 32.

Ld Lechmere.
E. Cowper.
E. of Strafford.
Ld Trevor.
Ld Bathurst.
E. of Macclesfield.
Ld Carteret.
Ld Townshend.
D. of Wharton.
D. of Argyle.
E. of Peterborough.
E. Coningsby.
Ld Harcourt.

Dissentients

I. Because we conceive, the permitting the Lord Bishop of *Rocheſter* to make his Defence in the House of Commons would be directly contrary to the Words and Meaning of the Protest on that Standing Order of the House, bearing Date the 20th of Occasion. *January*, 1673, which expressly and clearly orders, That for the future no Lord (which extends to Lords Spiritual as well as Temporal) shall go down to the House of Commons, or send his Answer in Writing, or appear by Council to answer any Accusation there; and it is observable that this Order is worded absolutely, and not qualified by the Words *without Leave of the House*, as the following Standing Order of the 25th of *November* 1696, which prohibits Lords from going into the House of Commons while the House is sitting, is qualified; from which different penning, as well as

from

* Lord High Chancellor,

Anno 9. Geo. I. from the Preamble of the said first mentioned Order (which
 1723. shews the Mischief designed to be prevented was, the giving
 Leave, in Case of Lords desiring it, to appear or answer
 Accusations in the House of Commons) we infer that the
 said Order of *January*, 1673, was meant as a Rule for all
 future Times, that if Leave should be ask'd by a Lord of
 Parliament to answer or make a Defence to an Accusation
 (in any Form, as we conceive) in the House of Commons, it
 ought to be denied, as deeply intrenching on the Privileges
 of this House.

II. The said Standing Order, in Affirmance of which the
 Question was moved, ought to be of the greater Weight,
 in our Opinions, it having been founded on the Considerati-
 on and Report of a Committee (to whom it was particular-
 ly referr'd to consider the Practice of the Lords desiring
 Leave to answer Accusations in the House of Commons)
 on the Perusal of Precedents in that Committee, and upon
 serious Consideration and Perusal of the same Precedents in
 the House itself.

III. We cannot apprehend but that a Bill, by which
 Crimes are charged and a Preparation is made to inflict Pe-
 nalties, if the Crimes are proved, contains clearly an Ac-
 cusation, especially when a Day is given, and Council allow-
 ed by the House of Commons to the Person against whom
 the Crimes are alleged to make a Defence to the same;
 which Proceeding, tho' in the Legislative Capacity of that
 House, carries in it all the essential Parts of a judicial Trial;
 and we therefore conceive that this House ought to be more
 jealous of their Members answering in the House of Com-
 mons an Accusation in this Form, rather than in any other,
 since thereby they submit themselves to try the Point of their
 being guilty or not guilty in the House of Commons, and that
 in order to receive the Sentence and Judgment of that House,
 by passing or rejecting the Bill; and this, in our Opinions,
 more deeply entrenches, as the Standing Order expresseth it,
 on the Privileges of this House, than a Lord's going down
 to the House of Commons, during a Debate there, to prevent
 an Impeachment, doth; the latter being only to prevent an
 Accusation, but the former is, as we clearly conceive, to
 answer an Accusation there; the very Thing prohibited by
 the Standing Order.

IV. We think the Accusation which Lords are prohibi-
 ted to answer by this Standing Order, must be chiefly, if
 not only understood, of an Accusation couched in a Bill (as
 in the present Case) since we never heard that any Lord of
 Parliament did at any Time answer to, or defend in Person,
 or by Council, an Impeachment in the House of Commons,
 tho' they may have gone down to the House by Connivance

to prevent such Impeachment; and therefore Lords defending themselves in the House of Commons against an Impeachment, could not be the Mischief intended to be cured by the said Standing Order.

Anno 9. Geo. I.

1723.

V. That the House of Commons, on Bills to inflict Penalties, do proceed, strictly speaking, in their Legislative Capacity, is certainly true; and yet it is plain to us, that, in Reality, they partake in such Cases with the House of Lords in the Judicature, or, which is all one, in trying and adjudging Offenders to Punishment; and tho' the Lords should, in very extraordinary Cases, think fit to concur in such a Method of punishing, yet it is, in our Opinions, going by much too far for the Lords to permit any of their Body to make Defence in the House of Commons, either by himself or Council; which is letting themselves down to a very great Degree, and giving an unnecessary Encouragement to that Manner of Proceeding; and when the Lords have so far submitted to this Course, we think there is little Reason to expect that afterwards the Commons will ever appear at the Lords Bar as Accusers, when they can, by this Way, make themselves as much Judges, even over Lords, as, in this Proceeding by Bill the Lords themselves are.

VI. Though Lords, by not being permitted to appear, either in Person or by Council, to defend themselves in the House of Commons, may be thought possibly to lose some Advantage in their Defence, yet, we think, it was and is the true Meaning of the said standing Order first mentioned, that a Lord should rather suffer something of Inconvenience in that Particular, and commit his Cause to God and the Justice of the House of which he is a Member, and who are his proper Judges, than in any Degree debase or derogate from the legal State and Dignity of the Lords in general.

VII. Although there be, as we conceive, a very manifest and important Difference in Reason, as to the Matter of this Question, between the Case of Bishops (who are declared by the standing Order of the 23d of May, 1628, to be only Lords of Parliament, and not Peers, for they are not of Trial by Nobility) and that of the Peers of the Realm, who undoubtedly, for Matters of Treason and Felony, are triable by their Peers only; yet since, by the standing Order first mentioned, Bishops are as much and as clearly prohibited to answer an Accusation in the House of Commons, as the Peers and Lords Temporal are, we cannot but apprehend, with the deepest Concern, that this Case may be used hereafter as a Precedent (though, as we take it, far from being a Precedent in Point) to bring by Degrees the Peers of the Realm to defend themselves against Accusations

Ann^o 9. Geo. I. of the like Nature in the House of Commons ; which if
 1723. once brought to be a Practice, we are of Opinion, that the
 Peers of the Realm would in great measure be degraded
 from their Peerages, and so by weakening and debasing the
 Order of Nobility, which in its Institution was meant,
 or at least hath proved a Lustre and Security to the Crown,
 the Safety as well as Dignity of the Crown itself may be
 hereafter in a great Degree impaired.

Scarsdale, Cowper, Strafford, Poulett, Hay, Foley, Arundell, Uxbridge, Weston, Bruce, Litchfield, Montjoy, Bathurst, Bingley, Dartmouth, Gower, Trevor, Aylesford, Alsburnham, Compton, Guilford.

Then a second Question was put, that this House give Leave to the Bishop of *Rochester* to be heard in the House of Commons, by Council, or otherwise, if he thought fit, and that he have Notice sent him, That this House consented thereto, it was carried in the Affirmative by 77 against 27.

Bp of Rochester's
 Complaint concerning his being
 search'd, and his
 Papers taken
 from him in the
 Tower.

April 5. A Petition of *Francis* Bishop of *Rochester*, Prisoner in the *Tower*, was presented to the House and read, setting forth, That on *Thursday* the 4th Instant, about three o'Clock in the Afternoon, Colonel *Williamson*, Deputy-Lieutenant of the *Tower*, attended by Mr *Serjeant*, the Gentleman-Porter, and by two Wardens, came up to the Petitioner's Room while he was at Dinner, and having put his two Servants under the Custody of Warders below, told the Petitioner he must search him ; the Petitioner asked him for his Warrant ; he answered, he had Authority from the Ministry, affirming it upon his Salvation ; but the Petitioner refused to be searched till he shew'd it ; he then said he had a verbal Order, but refused to say from whom ; the Petitioner told him, if it were verbal only, it did not appear to him, and he would not be searched ; he endeavoured nevertheless to search the Petitioner's Pockets himself by Force, but the Petitioner wrapped his Morning-Gown about him, and would not suffer him till he shewed his Warrant, which the Petitioner demanded five or six Times to no Purpose ; he then ordered the two Warders attending him to come to the Petitioner and do their Duty, and one of them laid Hands upon him, and began to use Violence ; and though the Petitioner knocked and called often for his Servants, Colonel *Williamson* said they should not, nor were they permitted to come near him ; upon this, the Petitioner submitted, and they took every Thing out of his Pockets, and searched his Bureau and Desk, and carried away with them two Seals ; they seized also a Paper in the

Peti-

Petitioner's Pocket, but that being a Letter to his Solicitor Anno 9. Geo. 1.
about the managing of his Cause, which the Petitioner thought they could have no Pretence to seize while he was under the Protection of Parliament, he took it again from them and tore it, but they carried a Part of it along with them; they searched also his two Servants below, and took away a Seal from one of them; and those two Servants likewise demanded their Warrant, but they had none to produce; the Petitioner therefore, as a Lord of Parliament, though under Confinement, humbly prays that their Lordships would be pleased to take these Matters into serious Consideration, and grant him such Relief and Protection as their Lordships shall judge proper against such unprecedented, illegal and insolent Usage.

And thereupon a Motion was made, and the Question Debate on a Mo-
was put, that Colonel *Williamson*, the Deputy-Lieutenant tion for the De-
of the Tower of London, Mr *Serjeant*, the Gentleman-Porter, puty Lieutenant,
the two Warders who attended Colonel *Williamson* Yester- &c. to attend.
day in the Apartment of the Bishop of *Rochester*, Prisoner in the Tower of London, and the two Servants of the said Bishop attending his Lordship, do attend at the Bar of this House immediately, to give an Account of the Matters mentioned in the said Petition?

The Earls *Cowper* and *Strafford*, the Lords *Lechmere* E. Cowper.
and *Bathurst*, spoke for this Motion; but were answer'd E. of Strafford.
by the Lords *Townshend*, *Carteret*, and *Harcourt*; and the Ld Lechmere.
Question being put thereupon, it was carried in the Nega- Ld Bathurst.
tive by a Majority of 56 Voices against 24. Ld Townshend.
Ld Carteret.
Ld Harcourt.

Dissentient

I. Because the Petitioner, as a Lord of Parliament and Member of this House, though no Peer of this Realm, hath an unquestionable Right, under all Circumstances, to the Justice and Protection of this House against any Person whatsoever, who, during the sitting of Parliament, commits any Act of Violence to his Person or Property, which this House may adjudge to be a Breach of Privilege; and therefore as we conceive, the Facts alledged in the Petition, if the same are true, and no Account given of them by the Persons concerned, to the Satisfaction of this House, are an unwarrantable Attempt upon a Member of this House, we think, that in Justice to the Petitioner, and to the Honour and Privileges of this House, there ought to have been an immediate and impartial Examination by this House of the Persons concerned, we finding no Instance on the Journals of this House, where any Member of the House hath complained, by Petition or otherwise, of the least Violence or Injury to his Person, during the Time of Privi-

Protest on their
Attendance be-
ing refused.

Anno 9. Geo. I. lege, wherein the House hath not ordered an Examination of the Facts so complained of.

1723.

II. Because it appears to us, that the Petitioner being under Imprisonment, and a Bill depending against him in the House of Commons, that House having allow'd him the Benefit of Council and Solicitors for making his Defence, were proceeding against the Petitioner on that Bill, in all Probability, at the very Time the Matters complained of were transacted ; and as that Bill may soon come under the Consideration and Judgment of this House, the seizing the Petitioner's Letter to his Solicitor, or any Thing which may concern his Defence, we are of Opinion, ought to have been examined into, it being, as we conceive, against the Rules of natural Justice, the Laws of all Nations, and the fundamental and known Laws of this Realm, that any Papers or other Things in the lawful Possession of the Person so accused, and which may relate to his Defence, should be forcibly wrested from him ; or that any Person, and more especially a Lord of Parliament, being under Imprisonment and Accusation for High Treason, should by Terror or other Violence, be, without just Cause, in any Degree disturbed in or disabled from making his Defence.

III. Because the refusing to enter into the Examination of the Matters complained of by the Petition may, in our Opinions, be construed to be a Justification of the Proceedings therein alledged, even though there was not a reasonable Occasion for the same ; and it being suggested in the Petition, that the Deputy-Lieutenant of the Tower did affirm to the Prisoner, upon his Salvation, that he had a verbal Order from the Ministry, though he refused to say from whom, and not pretending that what he did was by his own Authority, we are of Opinion that it was of the greatest Consequence to the Honour of his Majesty's Government, that this House should have examined into this Proceeding ; and the rather, because we conceive it to be of the highest Importance to the free and impartial Administration of Justice, that this House should on all Occasions discountenance all Appearance of Force, especially on a Lord of Parliament imprisoned and accused of High Treason.

IV. Because, we think, that if an unjustifiable Violence be offered to the Person or Privilege of any Member of this House, and not examined into, it may prove an Encouragement to commit the like, if not farther Abuses on any other Member of this House in future Times.

*Stratford, Cowper, Bathurst, Hay, Montjoy, Guilford,
Lechmere, Scarsdale, Poulett, Weston, Foley, Litchfield,
Albournham, Bingley, Bruce.*

April

April 10. Lord *Lechmere* took notice, That the House having put off the second reading of the Bill, *For inflicting Pains and Penalties on John Plunket*, to the 26th of *April*, and ordered that the said *Plunket* should then be brought to the Bar of their House, to make his Defence, his Lordship thought it proper to represent to the House, ' That a State Messenger's House where *Plunket* was in Custody, was not a legal Prison; and that it would be derogatory to the Dignity of that House, to direct their Warrants, for bringing the Prisoner to their Bar, to a Messenger, who was not a legal Officer.' Wherefore he moved to address his Majesty, ' That the said *Plunket* be removed to the Tower of London, or some other legal Prison.' This Motion was seconded by the Earl *Cowper*, but was opposed by the Lords *Townshend* and *Carteret*, who alledged, That such an Address would imply a Distrust of his Majesty's Ministers; and that *Plunket* being in a Messenger's House, guarded at Sight by a Captain, and Centries at the Door, was in safer Custody than if he was in a Common Goal: So that the Question being put upon the said Motion, it was carried in the Negative by 58 against 16: However, the very next Day, *Plunket* was committed Prisoner to the Tower of London, and lodged in the House of Mr. *Bradbury*, one of the Warders.

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1723.

Debate relating
to the bringing
Plunket from a
Messenger's
House to the Bar
of the House of
Lords.

Ld *Lechmere*.

E. *Cowper*.

Ld *Townshend*,
Ld *Carteret*.

He is committed
to the Tower.

On the 24th of *April*, the House took into Consideration the Duke of *Dorset*'s Report from the Lords Committees, and the said Report being read, it was resolved, That this House is fully satisfied and convinced, That a detestable and wicked Conspiracy has been formed and carried on, for soliciting a foreign Force to invade these Kingdoms, for raising a Rebellion, and inciting Insurrections in London, and divers other Parts of Great-Britain, and even for laying violent Hands on the sacred Person of his Majesty, and on his Royal Highness the Prince of Wales, in order to destroy our Religion and happy Constitution, by placing a Popish Pretender on the Throne.

The Thanks of
the House given
to the Lords
Committees.

After this it was ordered, That the Thanks of this House be given, by the Lord Chancellor, to the said Lords Committees, for their having discharged the Trust in them reposed, with great Exactness, Care, Fidelity and Candor.

Thereupon the Lord Chancellor addressing himself to the Lords of the said Committee, gave them the Thanks of the House in the following Words:

My Lords who were of the Committee,

I am commanded by the House to give your Lordships the Thanks of this House, for your having discharged the Trust

The Ld Chan-
cellor's Speech
on that Occasion

Anno 9. Geo. I. *reposed in you, with great Exactness, Care, Fidelity, and Candour.*
1723.

My Lords,

The Trust was as great as ever was reposed by this House in any of its Members. The Subject Matter of your Inquiry, a Conspiracy the most dangerous as well as detestable, big with Mischiefs of all kinds, and destructive of every thing that is valuable amongst us; carried on and managed in a new devised Method, with the utmost Cunning as well as Wickedness, and covered with all the Disguises the most artful Dexterity could contrive; and which therefore required the greatest Penetration and Skill to lay open. And the Papers, some of them of such a Nature, that it was thought fit to refer them to your Lordships, lock'd up as they were, without reading them in the House.

My Lords,

Your Lordships have fully answer'd the Expectations the House entertained, when they pitched upon you for this Trust.

Your Application in going thro' so many Papers of affected and studied Obscurity; your Candour and Exactness in examining the Persons concerned or any way capable of giving any Satisfaction, and in representing what they said; the Accuracy and Judgment of your Remarks; the Light you have so happily given to several Passages in the Report of the Committee of the Commons, which tho' in themselves just, were yet liable to Cavils, by such as were loath to have the Truth found out, give, I dare say, a sensible Pleasure to every Lord here, that has heard your Report read, and finds himself thereby enabled to form a Judgment with so entire Satisfaction to himself, concerning this abominable Work of Darkness, which the Actors have endeavoured to surround with impenetrable Obscurity.

This noble Pleasure, of seeing the Truth, notwithstanding so many Contrivances to bide it, and of being thereby enabled to come to right Resolutions in a Matter of such Importance, has very naturally and agreeably broke out into so unanimous a Resolution of returning the Thanks of this House to your Lordships, to whom they so much owe it. And in Obedience to their Commands, I do, with particular Pleasure, give your Lordships the Thanks of this House, for your having discharged the Trust in your Lordships reposed, with great Exactness, Care, Fidelity, and Candour.

Debate on the
second Reading
of the Bill a-
gainst Plunket.

On the 26th of April Mr. Plunket was brought to the Bar of the House of Lords, where he had the Assistance of a Solicitor only, and objected to the second Reading of the Bill, *For inflicting Pains and Penalties on him, in that House, alledging, that he had never been heard against the said Bill*
in

in the House of Commons; but this Objection was over-ruled, and the Lord Chancellor acquainted him, this was not the proper Time to object to the Bill. Then Mr. *Reeves* and Mr. *Werge*, were heard for the Bill, who open'd the Evidence, and produced Extracts of several original Letters from Abroad relating to the Conspiracy, to prove the first Part of the Preamble of the Bill. Hereupon Mr. *Plunket* said, ' That if this Bill affected none but himself, he would be unconcerned about it, and give their Lordships no Trouble, well knowing he was too inconsiderable to merit the Attention of so noble an Assembly, and being besides advanced in Years, he little cared whether he was to pass the Remainder of his Days in the wide World, or in a Prison; But that he opposed this Bill for the Good of the whole Nation, whose Liberties and Properties would become precarious, if such an unprecedented Bill, unsupported by any legal Proof, should pass into a Law: And as the Peers of the Realm, were no less concerned than the Commoners in this extraordinary Proceeding, he doubted not, but their Lordships would, with their usual Wisdom and Equity, maturely weigh the ill Consequences of it; and in the first Place, he beg'd their Lordships to consider, whether Extracts of intercepted Letters, some of them from anonymous and unknown Persons, should be admitted to be read as Evidence.'

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1723.

Mr. *Plunket*, and the Counsel for the Bill being withdrawn, the Lord *Townshend* open'd the Debate, and endeavoured to justify the Commons proceeding in this extraordinary Manner, and to shew that the Conspiracy in general, and *Plunket's* Share in it, in particular, were made out by as strong and as convincing Proofs, as could be expected in a Case of this Nature, where the Conspirators had used all sort of Art and Industry to conceal the true Names of the Persons concerned, in order to avoid the Danger of legal Conviction.' His Lordship was supported by the Duke of *Argyle*, the Earls of *Peterborough* and *Coningsby*, and Lord *Carteret*; who were answer'd by the Earls *Cowper*, *Stratford*, and *Anglesea*, and the Lords *Bathurst*, *Bingley*, *Trevor*, and *Lechmere*; and after a Debate that lasted till about three in the Afternoon, it was moved, ' That the Opinion of the Judges be asked, whether Extracts out of Letters written by the King's Ministers abroad, and others, to the Secretaries of State here, attested by the Secretary of State, and examin'd by the Lords of the Committee, and found to agree with the Originals, (which Originals are yet extant, and remain in the Hands of the Secretaries of State, but contain Particulars which 'tis not consistent with the Safety of the Publick to divulge, as hath been affirmed to this House

D. of Argyle.
E. Peterborough,
E. Coningsby.
Ld Carteret.
E. Cowper.
E. of Strafford.
E. of Anglesea.
Ld Bathurst.
Ld Bingley.
Ld Trevor.
Ld Lechmere.

Motion to ask
the Judges Opinions whether
Extracts of Letters to the Secretaries of State are allowable for Evidence?

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House by the two Secretaries of State;) and which the Lords Committees offered to be produced, to prove the first Part of the Preamble of the Bill; which recites a detestable Conspiracy for the Purposes in the Bill, could be allowed to be read as Evidence in the Courts below, in any Prosecution against *Plunket*.'

It passes in the Negative.

And a Question being stated thereupon and put, it was resolved in the Negative; upon which the following Lords enter'd their Dissent, *viz. Cardigan, Anglesea, Guilford, Scarsdale, Bruce, Craven, Aylesford, Gower, Lechmere, Uxbridge, Poulett, Litchfield, Fr. Cestriens', Brook, Exeter, Berkeley de Stratton, Bathurst, Foley, Compton, Weston, Willoughby de Broke, Dartmouth, Masbam.*

The said Extracts allowed to be read in Favour of the Bill.

Then a Motion was made and the Question put, whether the said Extracts should be read in Proof of the Allegations of the Preamble of the said Bill? And it being resolved in the Affirmative by a Majority of 91 Voices against 29, several Lords enter'd their Dissent, *viz. Strafford, Scarsdale, Craven, Aylesford, Bruce, Cardigan, Uxbridge, Poulett, Lechmere, Fr. Cestriens', Berkeley de Stratton, Bathurst, Anglesey, Litchfield, Foley, Guilford, Weston, Gower, Compton, Brook, Masbam, Dartmouth, Willoughby de Broke, Exeter.*

Farther Proceedings against *Plunket*.

Then Mr. *Plunket* and the Counsel being call'd in, the latter proceeded to prove the Conspiracy, in general; and for that Purpose, caused several Letters, and Extracts out of Letters received from abroad, to be read. In the next Place they offered to read *Neynoe's* Examinations and Confessions before a Committee of the Lords of the Privy-Council, but *Plunket* opposed the reading of them, urging, That the Examinations of a dead Man, neither signed nor sworn to by him, could not affect him, and therefore ought not to be admitted to be read as Evidence. The Earl *Cowper*, thereupon desired that the House might be inform'd what Nature those Examinations were of? And whether they were signed, and taken upon Oath? To this last Question the Lord Viscount *Townshend* answer'd in the Negative, and then gave the House the Reasons of that Omission, and an Account of the said Examinations, *viz.*

R. Cowper.

L. Townshend's Account of *Neynoe's* Examination.

That *Neynoe* being, at first, free and willing to confess what he knew of the Conspiracy to the Lords of the Council, they only took the Minutes of what he said in three different Papers, which were, each of them, read twice to him, who own'd every Article of them to be true; That afterwards He, (the Lord *Townshend*) delivered those three Papers to Mr *De la Faye*, in order to his digesting them into one, which accordingly he did; That they design'd to get this Paper sign'd and sworn to by *Neynoe*, but

that,

that, in the mean time, whether upon the Dread of being sent to *Newgate*, unless he turn'd Evidence, he endeavoured to make his Escape, and was drown'd. *Plunket* still insinuating, that the said Examination ought not to be admitted as Evidence, and desiring their Lordships Judgment thereupon, he and the Counsel were ordered to withdraw; and then it was proposed, That the Examination of *Philip Neynoe*, since dead, be read in Proof of the Conspiracy in general? A Question being stated thereupon, it was moved to add these Words, *viz. But not taken upon Oath, nor signed by him.* After a Debate, the Question being put, Whether these Words should be made part of the Question? It was resolved in the Negative, by 87 against 29. Then the Question was put, Whether the Examination of *Philip Neynoe*, since dead, should be read in Proof of the Conspiracy in general? Which, after a Debate, that lasted till near seven in the Evening, was carried in the Affirmative; and thereupon the following Lords enter'd their Dissent, *viz. Scarf-dale, Gower, Anglesea, Cardigan, Strafford, Dartmouth, Aylesford, Brook, Foley, Bruce, Willoughby de Broke, Exeter, Litchfield, Weston, Poulett, Compton, Masbam, Fran. Cestriens', Uxbridge, Craven.*

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1723.

Which is allowed to be read in Proof of the Conspiracy.

Then the Counsel for the Bill produced several Evidences which were examined, and also Copies of three Letters stopt at the Post-Office. Then several Witnesses were examined against the Bill; and *Plunket* and his Solicitor were heard; which having lasted till eleven at Night, the Lords adjourn'd to the next Morning.

Accordingly, on the 27th, the Counsel for the Bill proceeded in their Evidence, and having summ'd it up, Mr *Plunket* made some Observations thereupon, and begg'd Leave to send for some Witnesses, who were in Prison for Debt. His Request was granted, and then the House adjourned during Pleasure. Being about an Hour after resumed, Mr *Plunket* produced several Witnesses, in order, principally, to invalidate the Testimony of *Matthew Plunket*, a Serjeant of Invalids at *Plymouth*, whose Depositions bore hardest against him. Mr *Plunket* produced also a Graver in order to prove, That a Man's Hand-Writing might be so nicely and perfectly counterfeited, as that not only others, but even himself, might be deceived by it, and not distinguish it from the true and genuine Hand: Hereby he endeavour'd to discredit and weaken the Testimony of Mr *Radick*, a German, formerly an Under-Secretary to Count *Galles*, who having been employed by Mr *Plunket* in translating into German some Letters which the said *Plunket* pretended to have intercepted at Count *Botbmar's*, was perfectly acquainted with his Hand, and thereupon deposed that *Plunket's* in-

Plunket's Defence.

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1723.

intercepted Letter, of the 23d of *July* 1722, signed *Jo. Rogers*, was his Hand-writing. The Prisoner said little in his own Defence, but complained, That while the Bill was depending in the House of Commons he had no Time to make his Defence there. When he had done speaking, the Counsel for the Bill answered all his Objections, and endeavoured to shew them to be frivolous and ill-grounded. They said, they would produce Witnesses of undoubted Credit to support *Matthew Plunket's* Reputation and Evidence; That as to the counterfeiting a Man's Hand-Writing, they did not deny the Possibility of it, but that it did not from thence follow, that it had been done in the present Case; That it was, at least, incumbent on the Prisoner to prove the Fact, which he had been so far from attempting to do, that on the contrary, while he was in Custody, he had been extream cautious to write any Thing, for fear of furnishing the Government with Proofs against himself; That when the Sergeant at Arms attending the House of Commons, did, by their Order, deliver to him a Copy of the Bill against him, he, at the same Time, caused Pen, Ink, and Paper to be brought to him, letting him know, that he might apply either by Petition to the House, or by Letter to the Speaker, for Counsel to assist him in his Defence, but that he declined making use of the Liberty allowed him to write, and even refused signing a Letter which Captain *Larson*, who guarded him at Sight, had offer'd to write for him; so that it was his own Fault he did not make his Defence before the Commons. All this was confirm'd upon Oath by Captain *Larson*, who gave the Lords a full Account of the Prisoner's Behaviour during his Confinement; and 'tis remarkable, that *Plunket* having endeavoured to puzzle the Captain by some cross Questions, he betrayed himself, owning, That the Reason why he would not write any Thing, was, because he had been told, that the Government had several Letters of his that were not yet printed, which they might compare with his Hand-Writing. The King's Council produced several other Witnesses to support their Allegations, and having made an End of their Evidence, they were order'd to withdraw. Then their Lordships examined the Prisoner for about a Quarter of an Hour; which done, in a grand Committee, they went thro' the Bill to punish him; and put off the third reading of it to *Monday* the 29th of *April*.

The Bill against
him pass'd.

Accordingly on that Day, the said Bill was read the third Time, and, after Debate, the Question being put, whether the said Bill should pass, it was carried in the Affirmative, by 87 Voices against 34.

Protest against
passing it.

Dissentient

I. Because Bills of this Nature, as we conceive, ought

not

not to pass but in Case of evident Necessity, when the Pre-^{Anno 9. Geo. I.}servation of the State plainly requires it ; which we take to be very far from the present Case, the Conspiracy having been detected so long since, and the Person accused seeming to us very inconsiderable in all Respects, and who, from the many gross Untruths, it now appears, he has wrote to his Correspondents Abroad, must appear to have been an Impostor and Deceiver even to his own Party.

II. Proceedings of this Kind, tending to convict and punish, are in their Nature, though not Form, judicial ; and do let the Commons, in effect, into an equal Share with the Lords in Judicature ; which the Lords ought to be very jealous of doing, since the Power of Judicature is the greatest distinguishing Power the Lords have ; and there will be little Reason to hope, that if Bills of this Nature are given way to by the Lords, the Commons will ever bring up Impeachments, or make themselves Accusers only, when they can act as Judges.

III. This Bill, in our Opinion, differs materially from the Precedents cited for it ; as to the Case of Sir *John Fenwick*, 'tis plain, by the Preamble of that Bill, that the Ground most rely'd on to justify proceeding against him in that Manner was, that there had been two legal Witnesses proving the High-Treason against him, that a Bill was found against him on their Evidence, and several times appointed him for a legal Trial thereon, in the ordinary Course, which he procured to be put off, by undertaking to discover, 'till one of the Evidences withdrew ; so that it was solely his Fault, that he had not a legal Trial by Jury ; all which Circumstances not being in the present Case, we take it, they are not at all to be compared to one another.

IV. As to the Acts which passed to detain *Counter* and others concerned in the Conspiracy to assassinate the late King *William*, of glorious Memory, we conceive, those Acts were not, in their Nature, Bills of Attainder, as this is, but purely to enable the Crown to keep them in Prison, notwithstanding the Laws of Liberty ; whereas this is a Bill to inflict Pains and Penalties, and does import a Conviction and Sentence on the Prisoner, not only to lose his Liberty, but also his Lands and Tenements, Goods and Chattels ; of which he having none, as we believe, we cannot apprehend why it was inserted, and this Bill not drawn on the Plan of *Counter's*, &c. unless it was to make a Precedent for such Forfeitures in Cases of Bills which may hereafter be brought to convict Persons, who have great Estates, upon Evidence which does not come up to what the Law in being requires.

V. If there be a Defect of legal Evidence to prove this Man guilty of High Treason, such Defect always was ; and

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we think if Bills of this Nature, brought to supply original Defects in Evidence, do receive Countenance, they may become familiar, and then many an innocent Person may be reached by them, since 'tis hard to distinguish, whether that Defect proceeds from the Cunning and Artifice or from the Innocence of the Party.

VI. This Proceeding by Bill does not only, in our Opinions, tend to lay aside the Judicial Power of the Lords, but even the Use of Juries; which distinguishes this Nation from all its Neighbours, and is of the highest Value to all who rightly understand the Security and other Benefits arising from it; and whatever tends to alter or weaken that great Privilege, we think, is an Alteration of our Constitution for the worse, though it be done by Act of Parliament; and if it may be supposed that any of our fundamental Laws were set aside by Act of Parliament, the Nation, we apprehend, would not be at all the more comforted from that Consideration that the Parliament did it.

VII. It is the Essence of Natural Justice, as we think, but it is most surely the Law of the Realm, that no Person should be tried more than once for the same Crime, or twice put in Peril of losing his Life, Liberty or Estate; and tho' we acquiesce in the Opinion of all the Judges, that if this Bill should pass into a Law, *Plunkett* cannot be again prosecuted for the Crimes contained in the Preamble of the Bill, yet it is certain, that if a Bill of this Kind should happen to be rejected by either House of Parliament, or by the King, the Person accused might be attacked again and again, in like Manner, in any subsequent Session of Parliament, or indicted for the same Offence, notwithstanding that either House of Parliament should have found him innocent, and not passed the Bill for that Reason; and we conceive it a very great Exception to this Course of Proceeding, that a Subject may be condemn'd and punish'd, but not acquitted by it.

VIII. We think it appears in all our History, that the passing Bills of Attainder, as this, we think, in its Nature is (except as before is said, in Cases of absolute and clear Necessity) have prov'd so many Blemishes to the Reigns in which they passed; and therefore we thought in our Duty in Time, and before the passing this Bill, as a Precedent, to give our Advice and Votes against the passing it, being very unwilling, that any Thing should pass which, in our Opinions, would in the least derogate from the Glory of this Reign.

IX. We apprehend it to be more for the Interest and Security of his Majesty's Government, that Bills of this Nature should not pass than that they should; since Persons who think at all cannot but observe, that in this Case some Things have been received as Evidence, which would not have

have been received in any Court of Judicature ; that Precedents of this kind are naturally growing (as, we think, this goes beyond any other which has happened since the Revolution) and if from such like Observations they shall infer, as we cannot but do, that the Liberty and Property of the Subject becomes, by such Examples, in any Degree more precarious than they were before, it may cause an Abatement of Zeal for a Government founded on the Revolution, which cannot, as we think, be compensated by any of the good Consequences which are hoped for by those who approve this Bill.

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Scarsdale, Willoughby de Broke, Poulett, Cowper, Bathurst, Gower, Anglesea, Guilford, Osborne, Trevor, Oxford and Mortimer, Weston, Hay, Masbam, Brooke, Compton, Fran. Cestriens', Montjoy, Uxbridge, Bingley, Exeter, Strafford, Craven, Foley, Berkeley de Stratton, Aylesford, Bruce, Litchfield, Dartmouth, Ashburnham, Lechmere, Cardigan.

April 30. Mr George Kelly was brought from the Tower, to the Bar of the House of Lords, to make his Defence against the Bill, *To inflict Pains and Penalties upon him*, with the Assistance of the Council who had been assigned him, to wit, Sir *Constantine Phips* and Counsellor *Pratt*. After the second reading of the Bill, Mr *Reeves* and Mr *Werge* were heard to it, who open'd the Nature of the Evidence they had to produce, to prove the Conspiracy in general, and the Prisoner's Part in it, in particular. Mr *Kelly's* Council raised several Objections to both, and, in a special Manner, strenuously oppos'd the reading *Neynoe's* Examination, urging, that as it was neither taken upon Oath, nor signed by him, it ought not to be admitted as Evidence : But as this Objection had already been in *Plunket's*, so was it easily over-ruled in the present Case. Hereupon several Informations of *Philip Neynoe* were read, importing in Substance, ' That *George Kelly*, who often went by the Name of *Johnson*, frequently told him, that the Bishop of *Rocheſter* held Correspondence with the Pretender and his Agents ; That he (*Kelly*) was employed by the Bishop in writing for him, and carrying on the said Correspondence ; That the Pretender relied more on the Advices from the Bishop, than from any other Person ; That the Bishop went sometimes by the Name of *Jones*, sometimes by that of *Illington* ; ' That he had seen several Cyphers in *Kelly's* Hands, one in Figures, another of fictitious Names, for carrying on the Correspondence with the Pretender's Agents ; That the Informant (*Neynoe*) had been employ'd to draw up three several Memorials to.

Proceedings on
the Bill against
Mr. Kelly.

Neynoe's Examination read.

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1723.

the Regent of *France*, to solicit him to send Forces to the Assistance of the Conspirators; the last of which was in *December*, 1721, and contain'd a Demand of 5000 Men to be sent to invade these Kingdoms; and that the Heads of these Memorials were given him by *Kelly*, and one who went by the Name of *Watson*, whom he took to be the late Earl *Marishal*; That in *March* following, *Kelly* brought him *Neynos* the Heads of a Letter, to be drawn up with a Design of its being intercepted by the Government, in order to amuse them into a false Security; That he drew the said Letter in a Paper writ Column Ways, and that it was brought back to him, corrected, as he believed, by the Bishop of *Rocheſter*; That *Neynos* farther added, That *Kelly* assured him, the Bishop got Notice of his being to be taken up, some Days before it happened; and that this Notice was given the Bishop by one of the Lords of the Council.

The Council for the Bill urged, That they had Evidence to produce to prove, That *Neynos* was intimately acquainted with *Kelly*, and thereby had an Opportunity of being informed by him; That the Bishop of *Rocheſter* was also acquainted with *Kelly*, invited him to dine with him, and sent to inquire after his Health; And that the several Particulars contained in *Neynos*'s Information, were corroborated and supported, in every material Circumstance, by several concurrent Proofs: To which Purpose several Witnesses were examined.

Then the Council for the Bill offered to produce the intercepted Letter from Mr *Kelly* to Mr *Gordon, junior*, Banker at *Bologne*, dated *April* 20, 1722, with a Packet inclos'd, consisting of three Letters, one to *Chivers* (Gen. *Dillon*) signed *T. Jones*, another to *Musgrave* (Earl of *Marr*) signed *T. Illington*, and a third to Mr *Jackson* (the Pretender) signed 1378, dated *April* 20, Part of each of them writ in Cypher, and which appear'd by the Matter to be from the same Person; and the Letters to *Musgrave* and *Jackson*, being inclosed in that to *Chivers*, were supposed to have been dictated to *Kelly* by the Bishop of *Rocheſter*. But the Counsel for the Prisoner strongly opposed the reading those Letters as Evidence, and several Peers, particularly the Lord *Bingley*, took great Pains in examining the Decyphers, Mr *Willes* * and Mr *Corbiere*, as to the Rules and Certainty of their Art. They both averr'd, ' That they had decypher'd the Letters in Question, at a great Distance one from the other, and without their communicating their Keys to each other, or having any Key communicated to them; and that the

Ld Bingley.

* Since appointed Dean of Lincoln; made Bishop of St David's, in August 1742.

the Rules they went by were almost as certain and infallible as any used in Mathematical Demonstrations.' But having, at the same Time, own'd, That in their several Explications of what was writ in Cypher, there had happened some small Variations such as the Word *Care*, and to *Provide*, in the one, and *Concern*, and to *Procure*, in the other ; a Debate arose upon the Question, whether Copies of Letters intercepted at the Post Office, and decyphered, should be read as Evidence : The same being carried in the Affirmative, the Council for the Bill proceeded in their Evidence till about Nine in the Evening, when the House adjourn'd.

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The House resolve that Copies of intercepted Letters, when decypher'd, be read as Evidence.

May 1. About Eleven in the Morning, the House being met, and Mr *Kelly* brought to the Bar, the Counsel for the Bill examined several other Witnesses, and then summ'd up their Evidence, which lasted till about Four in the Afternoon. After this Sir *Constantine Phips* and Counsellor *Pratt* made each a long Pleading in their Client's Defence, and, in particular, shew'd the Danger of such an unprecedented Way of Proceeding, without full and legal Proofs, in Cases, where the Lives, Liberties, and Properties of the Subject, were concerned : After which they examined Witnesses, to invalidate the Evidence given for the Bill, and in particular *Neynoe's* Informations. Among the rest, Mr *Bingley*, who was taken up at *Deal* with *Neynoe*, deposed, ' That *Neynoe* had several Times own'd to him, That in order to humour those in Power, and to get Money from them, he had told them several Stories of a pretended Conspiracy ; That by this Means, he got three or four Hundred Pounds from Mr *Walpole*. * And, that among other Drudgeries which Mr *Walpole* required him to do, he prevail'd with him, to convey into one of Mr *Kelly's* Drawers a List of Names of Persons concern'd in the Conspiracy ; that the said List might be seized, when *Kelly* was apprehended.' This being a Charge of a very heinous Nature upon a Person of so distinguish'd a Character, it was thought proper, that Mr *Walpole* should have an Opportunity to clear himself ; upon which that Affair was farther adjourn'd to the next Morning.

Accordingly, the 2d of May, the Commons, upon a Message from the Lords, having given Leave that Mr *Walpole* might attend their Lordships House, to be examin'd as a Witness, Mr *Walpole*, upon Oath, gave their Lordships a full Account of the whole Matter : He said, ' That on *Saturday* the 28th of *July* 1722, he receiv'd a Letter subscribed S. T. intimating, That if the Person who wrote it receiv'd Encouragement, he would make considerable Discoveries, and if an Advertisement acknowledging the Receipt of this Letter, and complying with the Proposal, were

Mr. R. Walpole examin'd in relation to Neynoe's Examination.

* Created Earl of Orford, &c. Feb. 9. 1741-2.

Anno 9. Geo. I. inserted in the *Gazette*, the Writer would wait upon the
 1723. Chancellor of the Exchequer, by the Name of *Walton*.
 That it being then too late to have an Advertisement inserted in that Day's *Gazette*, the same was deferred till Tuesday the last Day of July. That the next Day, *Neynos*, according to his Promise, waited upon him, Mr *Walpole*, who finding him at first very willing and free to tell all he knew of the Conspiracy, and to explain some fictitious Names, made use of in the Letters intercepted by the Government, unknown to the said *Neynos*, this Deponent, [Mr *Walpole*,] gave him, as an Encouragement, first the Sum of Two Hundred Pounds, by the King's Order, and afterwards, a Hundred and Fifty Pounds, at three several Times.' To corroborate this Deposition, *Neynos*'s Letter, of the 28th of July 1722, and the Advertisements inserted in the *London Gazette*, in Conformity thereto, were produced, which fully destroy'd *Bingley*'s Evidence: For as *Kelly* was taken up about the Middle of May, and Mr *Walpole* never saw *Neynos* till the Beginning of August, it was impossible for the latter to tamper with *Neynos* to convey the List of Names in Question, into one of Mr *Kelly*'s Drawers, when he should be apprehended.

Motion to resolve that certain Letters were not dictated by the Bp of the Bill, were not dictated by the Bishop of *Rocheſter* to Mr. *Kelly*.
 This Point being over, the Council for the Prisoner desired, ' That they might be at Liberty to proceed to examine Witnesses to prove, by several Circumstances, That the Letters dated 20th April, 1722, given in Evidence for the Prisoner *George Kelly* ;' but a Motion being made for complying with that Desire, the same occasion'd a very warm and long Debate ; and the Question being put thereupon it was carried in the Negative by 82 Voices against 47.

Diffident

Protest on its passing in the Negative.

I. Because it was insisted on by the Prisoner's Council, that the Proof desired was necessary to his Defence, and if allowed to be made would contribute to satisfy the House of the Prisoner's Innocence of the Crimes charged on him by the Bill ; for which Reason alone, if there was no other, we think the Witnesses ought to have been examined, it being, in our Opinions, against the constant Course and Rules of Justice, in criminal Proceedings of all Kinds, to preclude the Prisoner's Defence by refusing to hear his Witnesses, if they are legal and competent, and in Derogation of the Honour and Justice of the House, on this Occasion, to anticipate the Judgment of the House in the least Circumstance which the Prisoner or his Council insist on to be material to his Defence, and which may, if proved, be of Weight in the Consideration and Judgment of the House.

II.

II. It appears to us to tend directly to prove the Guilt or Innocence of the Prisoner, to discover, whether the Bishop of *Rocheſter* did dictate to the Prisoner the Letters mentioned in the Question; because it was declared to the House by the Council for the Bill, in opening the Charge against the Prisoner, that the Letters, though wrote by the Prisoner, were dictated to him by a greater Person; and although the Council for the Bill when called upon did not think fit to name that greater Person, yet it being suggested in the Report of the House of Commons, communicated to this House, and it being universally supposed hitherto, that the Bishop of *Rocheſter* did dictate the said Letters to the Prisoner, it became, in our Opinions, incumbent on the Prisoner to give the House what Satisfaction he could in that Particular, the same being made a Circumstance and Part of the Accusation against him, and if falsified, or rendered incredible, might influence the Judgment of the House in other Circumstances.

Anno 9. Geo. 1.
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III. Because the Declaration of *Philip Nynoe* deceased, though not signed or sworn by him, hath been allowed by the House to be read and given in Evidence, in Proof of the particular Facts charged on the Prisoner in the Bill; in which Declaration the Prisoner is expressly charged by the said *Nynoe* to have frequently told him, that the Bishop of *Rocheſter* held Correspondence with the Pretender and the Pretender's Agents, and that the Prisoner was employ'd by the Bishop in writing for him, and carrying on the said Correspondences, and that he had several Times left Mr *Kelly* at the Bishop's Door, when Mr *Kelly* went into the Bishop's House and stayed there an Hour or two, and upon coming back to him that the Prisoner made Apologies for staying so long, and told him he had been writing the Bishop's Letters, which he always apprehended to be the Foreign Correspondence of the Bishop with the Pretender's Agents; for which Reason also, we conceive, the Proof desired ought to have been received, because it may be thought a Denial of Justice, by this House, to the Prisoner, not to permit him to answer, even by legal Evidence, the particular and direct Evidence, which the House hath allowed to be given against him.

IV. Although the Prisoner may be guilty of a treasonable Correspondence, if he wrote the Letters mentioned in the Question, and the same were not dictated to him by any Person whatsoever, yet the Facts charged in the Bill, having been endeavoured to be proved, not by direct Proof of the Facts themselves, but by Circumstances; in our Opinions, the Prisoner's Defence must be applied to answer the several Circumstances; and it is, as we conceive, equally unjust

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to deny him the Liberty of falsifying that Circumstance of his writing the Letters, being dictated to him by the Bishop, as it would be, to refuse to allow him to prove, that the said Letters were not, or could not be wrote, or sent to the Persons to whom they are suggested or charged to have been wrote or sent, or to refuse him to prove by Circumstances, that the Prisoner himself did not or could not write the same, at the particular Times and Places the same are suggested to be so wrote or sent by him, or to deny him Liberty to falsify, by Circumstances, any other Circumstance relating to the supposed treasonable Correspondence charged on him by the Bill.

V. The Council for the Bill having alledged, as one Reason against the Examinations desired, that they were not prepared to answer that Evidence, might have been a Ground for the House to have allowed them a reasonable Time for such Preparation; but in our Opinions that Consideration ought not to weigh against the Prisoner's giving the Evidence to the House which he was prepared to give, especially since it was alledged, that the Examinations, now desired, were desired on the Prisoner's Part to have been made at the Bar of the House of Commons, and thereby so long ago publicly notified by the Prisoner.

VI. Because the Refusal of the Proof of any Circumstance of the Prisoner's Defence, if such Refusal be not just, must in its Consequence affect the Justice of the whole Proceeding against the Prisoner, because it deprives the House of the Liberty of forming a Judgment upon the whole Case, and tends, so far as that Particular goes, to subject this Proceeding against the Prisoner to the Objection of Partiality, which is most highly dishonourable to this House, especially considering the Latitude which hath been allowed in other Parts of the Examination on this Occasion.

Gower, Guilford, Strafford, Litchfield, Cowper, Trevor, Osborne, Montjoy, Poulett, Craven, Compton, Bract, Lechmere, Middleton, Leigh, Tadcaster, Bathurst, Pamfret, Northampton, Berkeley de Stratton, Denbigh, Scarsdale, Starwell, Anglesea, Cardigan, Fran. Cestrius, Dartmouth, Weston, Wharton, Arundell, Mafham, Foley, Willoughby de Broke, Brook, Bingley, Aylburnham, Uxbridge, Exeter, Salisbury, Hay, Aylesford.

Kelly's Defence
at the Bar of
the House.

Mr. Kelly's Counsel having made some farther Observations on the Evidence given for the Bill, and summ'd up their own Evidence, Mr. Kelly spoke in his own Defence as follows;

My Lords,

Since my Council have so fully answered every Article alledged against me, it may seem unnecessary to take up your

your Lordships Time, by saying any thing for myself. And, *Anno g. Geo. I.* indeed, it would be so, if my Charge were Ordinary or Particular. 1723.

‘ But, my Lords, I have been represented as a Person doubly guilty ; First, In transacting Treason for myself : And, Secondly, In doing it for other People.

‘ These are Crimes of the most heinous Nature ; and if they were as clearly proved, as they have been strongly asserted, I should justly merit your Lordships highest Displeasure, and all the Pains and Penalties that you could possibly inflict upon me.

‘ And since my Charge is so very extraordinary : Since these Proceedings seem to be without any Precedent ; and ; that the Innocence of other Persons calls upon me for publick Justice ; I believe your Lordships will easily allow, That to be silent in such a Case, would be truly criminal, and but too justly censured.

‘ To enter into all the Particulars of my Accusation ; would, I fear, take up more Time than is reasonable for me to ask, or for your Lordships to allow : And though the many Inconsistencies, Contradictions, and false Conclusions which appear in almost every Page of the printed *Reports*, plainly shew the Weakness, Absurdity, and Sophistry of them ; however, I shall only beg Leave to touch upon those material Parts, which relate to myself, and my Defence to them.

‘ And the first Article which I find myself charged with, is, the employing of one *Neynoe* to draw up three Memorials to the Regent of *France*, to sollicit Foreign Forces to invade this Kingdom.

‘ And for Proof of this, the Examinations of the same Person, which are neither upon Oath, nor so much as signed by him (and whom the Committee of the honourable House of Commons have represented as a very infamous Fellow) are the only Evidence assigned against me.

‘ *This*, my Lords, is the Crime ! and *This* the Proof !

‘ And though the bare mentioning of it, might be sufficient to convince your Lordships of its Weakness ; however, since so great a Weight has been laid upon this Kind of Evidence in another Place, it will be necessary to be a little more particular about it.

‘ The two first of these Memorials (*viz.* Those before and after the *South-Sea* Scheme) are but slightly mentioned : But the One pretended to be drawn up in *December 1721* ; (and containing a Demand of 5000 Men) and a Letter said to be written the *March* after (to amuse the Government into a false Security) are the chief Things upon which any Stress is laid.

1723.

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‘ And;

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‘ And, how false both these Allegations are, has, I don’t doubt, evidently appeared to your Lordships. For,

‘ Had my Accuser been really employed to draw up any such Memorials, it is reasonable to believe, that he would have kept Copies of some, and especially of the last of them; since a Person who turned Informer so suddenly after, may very well be presumed to have had Thoughts of it for some Time before; and such Papers would, no doubt, give great Weight to his Information.

‘ But the Ministry have produced no such Copies; neither do they pretend to have them: Which is a very great Indication that there never were any such Memorials at all.

‘ Besides, there are no two of his Examinations of a Piece. Nay! he contradicts himself in almost every one of them. For,

‘ In his second Examination, he says, That these Memorials were all drawn up by the Order of one *Henry Watson* (whom he really did not know, but took to be the late *Earl Mariball*) without making the least mention of me.

‘ In his third Examination, he says, They were delivered to me and *Watson*; and in his fourth, he says again, they were all drawn up by the Order of *Henry Watson* ONLY. And, in a few Lines after, contradicts himself and says, That the Heads of them were given to him by *Me* and *Watson*: Which are such Inconsistencies, as (your Lordships will easily grant) are not to be reconciled: And if his Memorials were no better drawn than his Examinations, I believe, they were not likely to meet with any great Success.

‘ As to the late *Earl Mariball*, how reasonable it is to believe, that a Person in his Circumstances should venture to come into *England*, and live so openly here, as to intrust himself, and a Secret of this Nature, to a Fellow, who (by his own Confession) did not know him, is humbly submitted to your Lordships.

‘ And as for my Part, it is very plain, that I could have no hand in them, since the Minutes in my Pocket-Book (in which I could have used no Disguise) agreeing with the concurrent Testimony of several Witnesses, plainly shew, That I was not in the Kingdom at the Times in which my Accuser pretends to have been so employed.

‘ For, by those Minutes, and their Testimony, it appears, That I went to *France* the 23d of *November*, 1721, and did not return ’till the latter End of the next Month: And my Accuser himself owns, in his first Examination, That he did not see me after my Return, ’till the *January* following; which makes it impossible, That he could have been so employed by me in *December*, since I was most part of

of that Month out of the Kingdom; and the few Days of it Anno 9. Geo. I. that I was here, he owns, he did not see me.

1723.

‘ Nor has the other Part of his Information relating to the Letter (which he pretends to have drawn up in *March*) better Grounds. ——— For, by the same Minutes, and by the same Evidence, it likewise appears, That I went to *France* the 22d of *February* after, and did not return ’till the middle of *April*, which makes it as impossible, that he could have been employed by me in *March*, since I was then likewise out of the Kingdom.

‘ Had this Examination been taken at any Distance of Time, it is possible he might be mistaken in it; but his first Information must have been about the middle of *April*, soon after my Return from *France*; for he confessed to the Person taken up with him at *Deal*, That he was the first who set the Ministry upon intercepting Letters. And the first Letters so intercepted, are owned, in the 42d Page of the Report made to the lower House, to have been the 22d of *April*, 1722. ——— And, surely, he cannot be supposed to have forgot so soon, what happened the very Month before; especially, since he has been so particular, as to name the very Day (*Saturday*) upon which he says this Letter was so drawn up.

‘ By all which it plainly appears, That this Article is not only groundless, but evidently false: And likewise, That he had no such Intimacy with me (as the Report pretends) since he has declared, That I never spoke to him of the Conspiracy; and that I could be a Month at one Time, and two Months at another, out of Town, without his knowing any thing of it.

‘ As to what is said to his coming sometimes to my Lodgings, I believe it may be true; but it has been fully proved, That his Visits were never to me, but always to another Person, who lodged in the same House.

‘ And, I do solemnly affirm to your Lordships, That I never was acquainted with the late Earl *Mariball*, or with any such Person who went by the Name of *Watson*: That I knew very little of my Accuser; so little, That I am confident, I never spoke to him ten Times in my Life; nor ever employed him in this or any other Affair whatsoever.

‘ The second Article charged upon me, is, *The carrying on of a treasonable Correspondence for the Bishop of Rochester.*

‘ And for Proof of this, the Examination of the same Person is the only Evidence produced against me, wherein he says, That I frequently told him, the Bishop was concerned in such a Correspondence; and that I managed it for

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him;

Anno 9. Geo. 1. him; with other Particulars not worth mentioning to you
 1723. Lordships.

‘ How reasonable it is, That I should tell such a strange Untruth to a Person that I knew so very little of; and what Credit ought to be given to his bare Assertion, who has affirmed such gross and notorious Falshoods in the former Article, must be submitted to your Lordships.

‘ And, in my present unhappy Situation, I cannot but think it a very great and singular-Happiness, to have so publick and honourable an Occasion of purging myself from so vile a Calumny, and of doing Justice to that most worthy and learned Prelate.

‘ And I do solemnly declare to your Lordships, upon the Faith of a Christian, That I never wrote or received a Letter of any kind for the Bishop of *Rochester*, or was privy to any Correspondence of his at Home or Abroad: That I never shewed him any Letter that ever I wrote to *France*, or ever sent one there by his Privy or Direction: That I am very little known to his Lordship, went very rarely to wait upon him; so rarely! That I am confident few of his Servants know either my Name or Face; and have not seen him above three or four Times these two Years past, and not above eight or ten Times in my whole Life.

‘ I do farther declare, That my Visits to his Lordship were publick; That I never went privately in a Chair to his House; always found other Company with him who were generally Strangers to me; and never once mentioned his Name, upon this or any other Account, to the Person who has thus accused me: Which, with the Evidence that has been produced of his own Confessions to that Purpose, is, I hope, sufficient to convince your Lordships of the Truth of it.

‘ And as for the Dog, which has been brought as a Circumstance to prove this Matter, I do, in the same solemn Manner, declare, That he was given to me by a Surgeon at *Paris* (whose Affidavit has been offered to be produced) and who at that Time, I do verily believe, never heard of his Lordships Name; and that he never was designed for any-body but the Person I gave him to:

‘ And I appeal to the very Ministers themselves, if the *British* Resident at *Paris*, (who is constantly attended by that very Surgeon, and examined him about it) has not confirmed the Truth of this Account to them.

‘ I do farther affirm, That the Bishop of *Rochester* never saw him; never received any Letter or Message by me, nor (do I believe) by any other Person about him: Neither did I ever know or hear, That his Lordship had any In-

Intercourse or Correspondence with the late Earl of *Mar*, Anno 9. Geo. I, or any other disaffected Person abroad.

1723.

My Lords,

‘ It cannot be imagined, That I have any particular Interest or Concern in this Matter ; for I never received any Favours from his Lordship ; neither do I owe him any Obligations, but those of common Justice ; and those I should perform, where I have so much Truth of my Side, to the greatest Enemy I have upon Earth.

‘ As for the other Circumstances which are brought to strengthen my Accuser’s Examinations, and are set forth in one *Pancier’s* Deposition ; they will appear, I don’t doubt, as groundless and inconsistent as the Examinations themselves.

‘ For this Person swears, That another told him of this Conspiracy : That six or eight Battalions of *Irish* Forces were to come from *Spain* to assist the Conspirators. That 200,000 *l.* were raised, and 800 Men regularly subsisted for this Purpose in *London*.

‘ These, my Lords, are called in the 38th Page of the Report of the Lower House, *The Concurrent and Corroborating Proofs* of my Accuser’s Examinations : And I humbly appeal to your Lordships, if any one of them carries the least Colour of Reason or Probability with it. For, can it be imagined, That such a Force should come from *Spain*, when there appears to be so strict a Friendship betwixt the two Kingdoms ? Or, That 200,000 *l.* could possibly be raised among all the Disaffected in *England*, in Case there was a Licence for it ? Or, 800 Men regularly subsisted in this City, without a Discovery ?

‘ These are such idle, inconsistent Tales, as, I am persuaded, can never have any Weight with your Lordships.

‘ Besides, my Lords, this is only bare Hear-say ; and if the Hear-say of such infamous Persons (or, indeed, of any Persons) be look’d upon as sufficient Evidence, I believe, no Man in *England* can be sure of his Life or Liberty an Hour, since any Two People may talk him into High-Treason whenever they please ; and the greater the Person is, the greater his Danger always will be.

‘ The Third Crime which I stand charged with, is, The writing of Three treasonable Letters for the Bishop of *Rochester*, supposed to be for the Pretender, the late Earl of *Mar*, and General *Dillon*, which Letters are said to have been sent by me to Mr *Gordon* at *Bologne*, with Directions to be delivered to one Mr *Talbot*.

‘ And, for Proof of this, the Clerks of the Post-Office are produced, who swear, That those Letters were (to the best of their Knowledge) written in the same Hand with an Original.

Anno 9. Geo. I. Original which was stopt as a Specimen of it : Which Original has been sworn by Two Persons to be my Writing, and, consequently, those Letters must be so too.

1723.

My Lords,

‘ These Letters are dated the 20th of *April*, and the Specimen so stop’d, the 20th of *August*; just four Months after.

‘ And how it is possible for People (who receive such a Number of Letters) to swear to a Likeness of Hand, at such a Distance of Time; and what Weight ought to be laid upon this kind of Evidence; or upon that modern and mysterious one given by the Decyphers, in which they don’t pretend to a Certainty themselves, must be submitted to your Lordships.

‘ And as to the Persons who have sworn to my Hand, I hope it will be considered, That one of them is a Messenger, who never saw any of my Writing, but the Superscriptions of a few Letters, which, your Lordships may easily see, do not bear the least Likeness with what he has sworn to.

‘ Besides, this very Person was turned out of his Employment upon my Account; and a few Days after he gave this Evidence in the House of Commons, I saw a Paragraph in the News-Papers, that he was restored to it again.

‘ And as to the other, it is to be hoped, That it will be likewise considered, That he is a Servant, who attended me only about three Weeks, and was turned off for an infamous Action, which he has acknowledged himself to have been guilty of: Besides, he has confessed, That he never saw me write, but as he went backwards and forwards in the Room; and at such a Distance, as not to be able to distinguish one Character from another: And it has been proved by Two Witnesses, (one of which was a particular Friend of his own) That he declared, He never knew any Thing of my Hand; but was threatned by the Secretary of State into the Affidavit, which has been printed to that Purpose in the *Appendix*.

‘ And if that Paper had been my Writing, it is impossible they could be reduced to a Necessity of making use of such improper Evidence, since no Pains have been spared to procure better; since Numbers of People have been taken up, confined, and examined to this very Point; and *Newgate* sent to, more than once, for Witnesses to it.

‘ And though it might be proved by the very Report of the Lower House, That those Letters could not have come from the Bishop of *Rockester*; however, my Business is only to convince your Lordships, That I was not the Writer of them, and of this, I believe, it is impossible to give clearer Proofs than I have done: For if those Letters had been dictated

dictated to me the 20th of *April* (as the *Report* pretends) Anno 9. Geo. I. it must have been at his Lordship's House in the Country ; since it appears by the Deposition of his Coachman, that he went there the 12th of that Month, and did not leave it till the 5th of *May*. 1723.

‘ But it has been proved, that I was in *London* all that Time ; and if it had been permitted, there is not a Person in the Bishop's Family, but would testify, That I was not then at his House in the Country ; and, consequently, could not have written any such Letters for him.

‘ Besides, I have brought several Persons of Credit and undoubted Characters, who have all testified, That the Hand in which those Letters are said to be written, is not mine, nor any thing like it.

‘ An Affidavit has been produced from Mr *Gordon*, That he never received any such Letters from me, nor ever had any Correspondence, or even an Acquaintance with me.

‘ And it has been likewise proved, That Mr *Talbot*, to whom those Letters are said to be delivered by Mr *Gordon*, was in this Town the very Day upon which they are said to have been delivered to him at *Bologne* : And if I had any such Letters to transmit, can it be imagined, that I would trust them to the Common Post, when I had so good an Opportunity to send them by, or direct them to *Bologne*, when the same Post might as well have carried them to *Paris*.

‘ These are such full, such evident Proofs, as, I hope, cannot fail of giving your Lordships the utmost Conviction in this Matter ; and, consequently, that this Article is, like the rest, both groundless and manifestly false.

‘ But, if any Credit is to be given to the Confessions which my Accuser made to the Person taken up with him, it is very plain, that those Letters must have come from another Quarter ; and, to say no worse, were at least calculated to carry on his own base and villainous Designs.

‘ For it has been proved to your Lordships, that he confessed to have been employed by one of the Ministers, received 350 *l.* from him, and was to have 2000 *l.* more. [See p. 286.]

‘ That this Minister declared a Personal Prejudice, upon some private Account, to the Bp of *Rocheſter* ; was resolved to pull down the Pride of that haughty Prelate, and to squeeze me (as I think the Expressions were) to that Purpose.

‘ I say, if any Credit is to be given to this Confession, there can be no great Difficulty in tracing out the Source of this Part of the Conspiracy ; and I am heartily sorry to say, That there are some Circumstances which seem to give but too great a Countenance to the Truth of it.

For,

Ann^o 9. Geo. I.
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‘ For, my Lords, he made this Confession at a Juncture when he may very well be supposed to have spoken in the Sincerity of his Heart ; when he saw his Villainy detected ; believed himself to be in the greatest Danger, and depended upon the Person’s Assistance (to whom he made it) to help him out of his Misfortunes. And how particular this Prosecution is, and how sufficiently I have been squeezed, are Things but too visible, and too well known to the World.

‘ Besides, the very Cypher by which those Letters were written, (and which he own’d to have received from that Minister) was actually caught upon the Person to whom he gave it ; and he confessed, That he put a Paper of Directions into one of my Drawers, by which (the *Report* says) most of the treasonable Letters were addressed.

‘ And it has been proved to your Lordships, that those Drawers were constantly open, and that he made some Pretext for being alone in my Lodgings, the very Night before I was first taken up.

‘ And since he was the first that set the Ministry upon intercepting Letters, which he said were mine, it is very extraordinary, that such a material Part of his Evidence should be omitted in his Examination, or that the very first Letters so intercepted, should be those alledged against the Bishop of *Rocheſter* : And if the Originals of those three Letters were stopt, I don’t at all doubt, but they might be proved to be my Accuſer’s own Hand-writing.

‘ And how strong a Sense he had of his Guilt, by attempting an Escape, which proved fatal to him, and how visibly the Hand of God has interposed in that eminent Prelate’s Favour, by taking one of the Persons, design’d for his Destruction, out of the World, and giving the other Grace and Virtue enough to withstand all Temptations to his Prejudice, are Things highly worthy of your Lordships just and most serious Consideration, and no small Indication of his Innocence.

‘ And as to the Money which my Accuſer own’d to have receiv’d ; that there was a very sudden and extraordinary Change in his Condition ; that, from the lowest State of Poverty and Want, he soon arrived to that of a vicious and most profligate Affluence, is a Truth sufficiently known to all those that were acquainted with him.

‘ But from whence this Change proceeded, or what real Grounds he had for aspersing that honourable Person, I will not pretend to say ; but if those Aspersions be false, as I wish they may, it may be justly inferred, that a Fellow who was capable of vilifying one Person, may very well be judged as capable of doing so to another : And if his Veracity

it

is not to hold good in one Case, there can be no Reason for Anno 9: Geo. I.
allowing it in the other.

1723.

' The Fourth Crime alledged against me, is, a Number of intercepted Letters, supposed to be written to, and received from the late Earl of Mar, General Dillon, and other disaffected Persons Abroad.

' And for the Proof of this, a *Frenchman* has been produced, who swears, That he once saw me take up a Letter at *Burton's* Coffee-House, by the Name of *Baker*, which Name, it is said, some of the treasonable Letters were addressed by; and was, in a Paper of Directions, found in my Lodgings. How that Paper came there, has been already proved to your Lordships.

' And as to the Person who has sworn to this Particular, I must observe, That when he gave this Evidence to the House of Commons, he did not know me, tho' he spoke to me, and look'd several Times earnestly at me; and for the Truth of this, I can appeal to most of the Members of that honourable House, who were Witnesses of it; and he would still have probably continued in his Ignorance, if some private Hints, as I have been told, were not given him, or the same Method taken, which has been done with a Number of other strange Fellows, who were frequently sent to the Tower, and had no other Business but to take a View of me.

' Besides, the People of the Coffee-house have testify'd the contrary, and that no such Letter ever came to their House. And tho' it be set down in my Examination before the Council, That I confessed to have taken up such a Letter, I humbly appeal to my Lord Chancellor (if it can be worth his Lordships while to recollect it) if he did not ask me that very Question two or three Times; and if I did not as often deny it. Neither is this the only Particular that is falsely set down in that Examination. And I do solemnly affirm to your Lordships, That I never did receive any such Letter, nor ever saw that Paper of Directions, till it was printed in the Report.

' And there is one Circumstance pretty remarkable in this Correspondence, That as it began with my Accuser's Information, so it ended with his being taken up. For immediately after a new Correspondence is pretended to be discovered; and to fix this likewise upon me, it has been suggested, that I sent Cyphers by Sir *Harry Goring* to *France*, and had Letters directed by them to *Sturges's* and *Slaughter's* Coffee-House.

' But, my Lords, no such Cyphers were found in my Custody, nor any Papers relating to such a Correspondence, and the People of those Coffee-Houses have all sworn, that I never

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order'd

Anno 9. Geo. I.
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order'd any Letters of that Kind to be taken in, or receiv'd one, either by my own or any other Name from them. Nay, one of them has sworn, That no such Letters ever came to his House at all; another says, That a Messenger from the Secretary's Office, was the only Person that ever called at his House for those directed to it.

And as to the printed Examination of one Mr *Caryl*, to this Purpose, it were to be wish'd, that this Gentleman's Reasons had been published, as well as his Accusation.

For I am confident, he will not pretend to say, that ever he saw me write a Line in his Life, or give a Piece of Paper of any kind to Sir *Harry Goring*; and what Reason he could have for believing that we settled a Key for such a Correspondence, is very extraordinary: Nor have the other Particulars which he has affirmed, the least Foundation of Truth; for I do solemnly aver to your Lordships, that I never saw *Semple* in my Life, or gave Captain *Bowis* any such Letter of Recommendation: Neither had I ever the Honour of speaking to my Lord *North and Grey*, or of being any ways known to his Lordship; and that I should mention him so familiarly by the fictitious Name of *Johnson*, (and which, of all Names, I should never make use of in that Manner) will, I hope, appear very incredible to your Lordships; especially since Mr *Caryl* himself has furnished so good a Reason for the Disbelief of it.

For he has likewise affirmed, That my Examination before the Council was read at Doctor *Yalden*'s House: The Doctor has indeed already done me Justice in that Point; and Mr *Tucker* (who was all the while in Company) will, I am very sure, do the same.

And since Mr *Caryl* appears to be so plainly mistaken in this Particular, surely he may very well be supposed to be so in all the rest, especially since he has not assigned the least Reason for any of them.

As to the rest of the intercepted Letters, the People of the several Coffee-houses have likewise cleared me from them; and all testify, That they never delivered me any such Letters, or received any Directions from me about them; which, I hope, will be sufficient to convince your Lordships, That I was not concerned in any such Correspondence, especially since no Letters of this Kind were found in my Possession, or any other Papers relating to the Conspiracy.

There are two other Crimes, in which I most humbly crave your Lordships Patience to be heard, because they are the blackest that can be imagined, and seem to be personal.

The First is a Letter directed to Mr *Gordon* at *Bologne*, with two Affidavits, which have been printed, and are suggested to be sent by my Directions, in order to have him and

one

one *Birmingham* perjure themselves upon my Account : — Anno 9. Geo. I.
 For in this Letter it is said, *That the Inclosed is a Copy of a* 1723.
Note from the Person concerned, with what he thinks requisite.

My Lords,

‘ This Letter is dated the 20th of *March*, at which Time, and for Five Months before, I never was allowed the Use of Pen, Ink, or Paper, or the Liberty of seeing any Person that could possibly have conveyed such a Note for me ; for I have been guarded in a different Manner from other People in the Tower : My Wardens were put into the very Room with me, and ordered never to stir a Moment, Night or Day, out of it ; which Orders they punctually obeyed, and were constant Witnesses to all my Actions.

‘ And those Wardens will depose, That, they believe, it was impossible for me to have written or sent out any such Directions ; and the Officers, I don’t doubt, will do me the same Justice.

‘ And when my Solicitor was admitted, finding that Mr *Gordon’s* Affidavit might be of use, if allowed as Evidence, a Person was immediately dispatched, and who brought it in a different Form from those which have been printed. And my Solicitor can testify, That no Draughts were sent by him ; which, with the gross Management of the Persons concerned in this Affair, is, I hope, sufficient to give your Lordships the clearest Conviction of my Innocence in it. And I do solemnly affirm, That I never knew any Thing of them ; never heard of the Name of *Akenhead* before ; nor can I find out any Person (besides the Master of that Vessel) that ever did.

‘ The other Crime is set forth in one *Levett’s* Deposition in the Report made to this most honourable House : Wherein (among a great many other most notorious Falshoods) she swears, That one Mrs *Barnes* told her, That I was instrumental in, or privy to the shutting up of a Person in a Dungeon, for fear of his turning Informer ; and not only of him, but of 200 more upon the same Account. Which, I believe, is the most surprizing Crime that ever yet was alledged against any Christian.

‘ Mrs *Barnes* denies every Syllable of this Conversation ; and if the Person that swears this against her, had been produced, she would be proved to your Lordships, to have been a vile infamous Creature all her Life. And if she is to be believed, or that your Lordships can think it possible there can be the least Truth in her Deposition, it will be a Sin to let me live, and impossible to find out a Punishment too cruel for me.

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‘ These, my Lords, are the chief Crimes which I am charged with ; and very great ones they are, had they been in any Degree made out against me.

‘ I am a Stranger to the Methods of Legal Proof, but have been told by my Council, That the greater a Person's Crime is, the clearer the Evidence ought to be against him ; and how weak and insufficient the Proofs produced for this Purpose are, and how clear and convincing those which have been offered in my Justification, has, I hope, evidently appeared to your Lordships, and given you intire Conviction of my Innocence ; and that all the Crimes alledged against me, are without the least Colour or Foundation of Truth.

‘ But how much I have suffered for these supposed Crimes, and what extraordinary Means have been made use of against me, are Things much worthier of your Lordships judicial Consideration.

‘ To be taken up and held to exorbitant Bail, without ever assigning any particular Crime against me : To suffer a long and close Confinement, where the Expence bears no Proportion to my Circumstances.

‘ To have Numbers of People, and some of them Creatures of the meanest Rank and Condition, taken up, examined, and tampered with upon my Account ; and *Newgate* sent to for Witnesses.

‘ To have a Servant (who was turned off for his Ill-Behaviour) brought as an Evidence ; and my most intimate Friends imprisoned for not swearing against me ; are Hardships and Proceedings, I believe, hitherto unheard of in *England* ; and such as, I hope, your Lordships will, in your great Wisdom and Justice, think fit to redress. All which is of a Piece with an infamous Offer made to myself by one of the Under-Secretaries of State, who, the Morning after I was first examined, came to me with a Message (as he said) from one, of his Superiors, to let me know, That I had now a very good Opportunity of serving myself ; and that he was sent to offer me my own Conditions.

‘ And when I declared myself an entire Stranger to the Conspiracy, and was sorry to find that noble Lord have so false an Opinion of me, he seemed to wonder, that I would neglect so good an Occasion of serving myself, especially when I might have any Thing I pleased to ask for.

‘ What Authority that Person had for this Message, or the rest of his After-Proceedings, I will not pretend to say : But as I have been ruined and utterly undone by them, I hope your Lordships will take my Sufferings, as well as Circumstances, into your Consideration ; and, instead of inflicting any farther Pains or Penalties, look upon me (as I really

really am) a Person highly injured, and not a Criminal concerned in any Transactions against the Government. Anno 9. Geo. I.
1723.

‘ As for my Circumstances, they are but too well known in the World.

‘ And here I cannot omit my Gratitude to the late and present Constables of the Tower ; for the late Constable * (though I never had the Honour to see his Lordship) was, upon a Representation of my Circumstances, so very good, as to procure me the Promise of an Allowance from the Government ; and his Lordship, the present, † has been so kind as to get it paid : But the Officers of the Place can testify, That this Allowance has not been converted to any private Use of mine, but constantly given to the Persons appointed to attend me. And I must take Leave to assure your Lordships, That it has cost me more since I was sent there, than the Government have now left me really worth in the World ; and I must suddenly become a Sacrifice to my Necessities, if not set at Liberty by your Lordships great Clemency and Compassion.

‘ If I have dropped any Expressions which may not be so agreeable to some particular Persons in Power, I could wish that my Defence had not laid me under that Necessity : And I do solemnly protest, That they have not proceeded from any Resentment for my Sufferings ; but from a sincere Endeavour to give your Lordships the clearest Conviction of my Innocence. And since I could not merit their Favour, I shall always endeavour to preserve their good Opinion.

‘ As to the Legality of these Proceedings, and the Danger of making Precedents of this Kind, those are Things which have been already fully set forth by my Council, and must be submitted to the great Wisdom and Jurisdiction of this most illustrious Assembly : An Assembly ! which is not only the highest and most honourable, but the uprightest and most impartial, I believe, upon Earth ; and whose Justice has ever appeared as extensive as their Power.

‘ The great, and, indeed, the only Argument which I have heard offered for the passing of this Bill, is, That the Occasion is extraordinary ; That your Lordships are in your Legislative Capacity ; and though the Proofs may not be so legal, however, *in Terrorem*, it is necessary to pass it.

‘ But I humbly beseech your Lordships to consider, where the Extraordinariness of this Occasion lies ? — Has there been the least Commotion in any Part of the Three Kingdoms ? Or any Person injured in his Liberty or Fortune, besides those who have been so unhappy as to fall under this Suspicion ?

‘ Or,

* Charles Earl of Carlisle.

† Henry Earl of Lincoln.

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1723.

‘ Or, is this Occasion more extraordinary than when there was a Publick Insurrection in the Kingdom? And when the Persons concerned in it, were tried by the Common and Ordinary Courts of Justice?

‘ And because your Lordships are vested with a supreme Authority, and not tied up to the common Forms of Law, can that be a Reason for your acting directly contrary to it? And to suppose your Lordships capable of doing so, was not, I must say, so becoming an Argument to have been offered upon this Occasion.

‘ And to have a Session, which opened with so mild, so gracious a Speech from the Throne, and in such an extraordinary a Manner, must surely be very contrary to the Design and Intention of the Throne at that Time; and is, I hope, so still; especially, since no intervening Accidents have happened to ruffle the Quiet and Tranquility of the Kingdom.

My Lords,

‘ The first extraordinary Bill that, I believe, ever passed in *England* was that of the Earl of *Strafford*; and how much personal Prejudice was in his Prosecution, and how fatal that Bill proved in its Consequences, I need not mention, since the Royal Martyr himself has, in his dying Words, called it, *An unjust Sentence*, and imputed all his Misfortunes to it. And,

‘ Pray, my Lords, why was that Sentence unjust, but because it was not supported by Law? — And, to the eternal Honour of this House be it said, That when the Proofs upon his Tryal were not found legal, they refused to find him guilty.

‘ But when this extraordinary Method was taken, and the Torrent of the Times bore down their usual Justice, then the Flood-Gates of all those Miseries were opened, which overwhelmed and sunk the Constitution: And of which, some of your noble Predecessors had so strong and lively a Sense, as to declare, in this very House, That they would be sooner torn in Pieces, than come into such illegal Proceedings; and so sell a Sacrifice to the Love and Laws of their Country.

‘ To which I shall only beg Leave to add one Observation, that, I am sure, is but too well known to that Right Reverend Bench: — ‘ That of all the Prelates who advised his Majesty to the passing of that fatal Bill, not one of them escaped the Violence of those very Persons whom they endeavoured to oblige by that Advice.’

‘ These, my Lords, were the unhappy Effects and fatal Consequences of one extraordinary Bill: And what those of another may prove, the great Director of all Things only can foresee!

Many

‘ Many are the Arguments which might be brought to Anno 9. Geo. I. shew the great Injustice, as well as Inconveniencies of these Laws in particular: But as my Liberty can be of no great Moment to the World, I shall only beseech your Lordships, Not through me, to give a Wound to the Constitution, which, perhaps, may not so easily be cured. 1713.

‘ The great Characteristick which distinguishes *England* from the rest of the neighbouring Nations, is, the Excellency of her Laws, of which your Lordships are the great Guardians: And if you suffer those Laws to be broke in upon, and render Life or Liberty so precarious, as to be affected or taken away, by every idle Hearsay, that Excellency must soon disappear, and the best Form of Government now upon Earth, consequently sink into Anarchy and Confusion.

My Lords,

‘ The Words of my Bill are very severe, and do not bear the least Proportion to the Proofs which have been produced against me: And I humbly hope, That my past Sufferings will be looked upon as a sufficient Punishment; especially since it is not pretended, that I have transgressed any Law yet in Being.

‘ I propose no great Happiness in this Life, and would willingly avoid as much Misery as I could; and must therefore humbly beseech your Lordships, To look upon me as a Stranger in your Kingdom, and a Person (as I really am) inconsiderable in myself; and consequently, incapable of doing the least Prejudice to any Government.

‘ For my Behaviour, I am willing to give the best Sureties that I am able: But if that be not approved of, I hope your Lordships will give me Leave to retire to some other Part of the World, where I may enjoy my Poverty with Freedom.

‘ But, let my Fate be what it will, I shall ever pray for your Lordships particular Welfare, as well as the general Prosperity of the Kingdom.

‘ And so resign myself, with the utmost Humility, to your Lordships great Clemency, Justice, and Compassion.

It being near Twelve at Night when Mr *Kelly* had done speaking, the farther Proceedings on his Trial was adjourn’d to the next Day, when the Bill against him being read the third Time, the Lord *Bathurst* offer’d a Rider to be added to the said Bill, which was read by the Clerk as follows, viz.

‘ Provided always, that if the said *George Kelly*, alias *Johnson*, shall, at any Time, give Security, such as shall be approved of by the two Chief Justices, That he will, within

Lord Bathurst moves that Kelly may have Leave to depart the Kingdom, on giving Security.

Anno 9. Geo. I. ' within one Month, depart his Majesty's Dominions, and
 1723. ' not return again without the Licence of his Majesty, his
 ' Heirs and Successors, then the said *George Kelly*, alias
 ' *Johnson*, shall be at Liberty to depart, any Thing in this
 ' Act to the contrary notwithstanding.'

And a Motion being made and the Question put, whether the said Rider should be read a second Time, it was carried in the Negative by 83 Voices against 38; upon which the following Peers enter'd their Dissent, *viz.* Of
born, Anglesea, Craven, Guilford, Starwell, Northampton,
 Which passes in the Negative. *Middleton, Gower, Fran. Cestriens', Scarsdale, Trevor, Batsburst, Strafford, Aylesford, Salisbury, Poulet, Bruce, Ashburnham, Dartmouth, Masbam, Weston, Hay, Brook, Litchfield, Foley, Exeter, Berkeley de Stratton, Compton, Uxbridge, Arundel, Cardigan, Montjoy, Willoughby de Broke, Bingley.*

The Bill against Kelly pass'd. Then the Question being put, That the Bill do pass, it was resolv'd in the Affirmative by 79 against 41.

Dissentient'

Protest against it. I. Because, we think, there is no Reason for the Legislature to pass a Law, *ex post facto*, to punish this Person for the treasonable Correspondence he is guilty of; he being in Custody, and may be brought to a legal Trial in one of the Courts of Justice.

II. We conceive the Want or Defect of such clear and plain Evidence as, by the Laws of this Kingdom, is required to convict any Person of High-Treason, no sufficient Reason to warrant the Exercise of the Legislative Power in making a new Law for his Punishment; because such Laws being made for the Protection of innocent Persons, from suffering by false, uncertain or doubtful Evidence, every Subject is intitled to the Benefit of those Laws, when he shall fall under an Accusation of High-Treason.

III. Because, as we conceive, by the Rules of natural Justice Laws ought to be first made, as Directions for Men's Actions and Obedience, and Punishment inflicted for putting those Laws in Execution against Offenders; and that therefore punishing by a Law, made after the Offence committed, is not agreeable to Reason or Justice, except only in the Case of real and apparent Necessity to prevent the immediate Ruin of a Government, which we do not think to be the present Case, or can bear any Resemblance to it.

IV. Because the Proceedings of the Legislative Power, in making Laws, can be governed by no Rule but that of their own Discretion and Pleasure; and therefore the making Laws to inflict Pains and Penalties on particular Persons must, as we conceive, tend to expose the Lives, Liberties and Properties

perties of the Subjects to an arbitrary Discretion ; and consequently render them precarious in the Enjoyment of those Blessings, which by our excellent Constitution and Government they have always had an uncontrollable Right to hold and enjoy, 'till forfeited for some Crime; and the Person offending legally convicted thereof, upon such full and positive Proof as the Laws of this Kingdom do require.

Anno 9. Geo. 1.

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V. Because, as we conceive, it would be of dangerous Consequence to the Safety of innocent Persons to allow Copies of Letters taken by the Clerks of the Post-Office, though sworn by them to be true Copies, to be given in Evidence against any Person accused of High-Treason, especially when such Copies are not compared with the Originals after they were taken, and the original Letters forwarded on by them are not produced ; because the Originals not being produced, such Person is deprived of an Opportunity of falsifying those Copies ; and though there should be any Mistake committed by the Clerk in copying, whether wilfully, or by Negligence, such Mistake cannot be detected for want of the original Writings to compare the Copies with.

VI. Because the Proof of Letters or other Writings in Criminal Prosecutions, by Similitude and Comparison of Hands, being, as we conceive, a very slight and weak Evidence, because Hands may be too easily counterfeited, and the Persons examined cannot speak positively, but to their Belief, and therefore not liable to be prosecuted for Perjury, hath, as we conceive, very justly been discouraged in such Times, when the Administration of Justice hath been most impartial ; and Convictions of High-Treason, grounded on such Evidence, have been reversed, by Act of Parliament, for that and other Reasons.

Pomfret, Fran. Cistriens', Strafford, Middleton, Aylesford, Batburst, Litchfield, Weston, Salisbury, Brooke, Hay, Willoughby de Broke, Ashburnham, Osborne, Compton, Bruce, Trevor, Cardigan, Exeter, Starwell, Anglesea, Gower, Masbam, Bingley, Uxbridge, Berkeley de Stratton, Scarsdale, Denbigh, Wharton, Northampton, Craven, Guilford, Poulett, Dartmouth, Foley, Montjoy, Tadcaster, Arundel.

On the 6th of May, about Eleven in the Morning, the Bishop of Rochester was brought to the Bar of the House of Lords, to make his Defence against the Bill, *To insist certain Pains and Penalties upon him*, with the Assistance of his Counsel, Sir *Constantine Phipps* and Mr *Wynne*. After the reading of the Bill, the King's Counsel open'd the Nature of it, display'd the Heinousness of the late horrid and

Proceedings against the Bishop of Rochester.

1723.

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execrable

Anno 9. Geo. I. **execrable Conspiracy**, and, in particular, aggravated th
 1723. **Crime of the Prisoner at the Bar**, who, as the Preamble suggested, *was principally concerned in forming, directing, and carrying on the said wicked and detestable Plot.* This done, in order to prove the Conspiracy in general, they offer'd to read several Extracts of Letters, which the Government had received from Abroad : But this was opposed by the Bishop and his Council, who alledged, ' That Extracts of Letters, some of them from anonymous, at least, from unknown Persons, ought not to be admitted as Evidence, and that, according to the Method of legal Proceedings, the Originals themselves ought to be produced. After the Counsel on both Sides had canvass'd the Matter, they and the Prisoner were order'd to withdraw ; and then a Motion was made, and the Question put, That the Extract of the Letter from Sir *Luke Schaub* to the Lord *Carteret*, offered by the Counsel for the Bill, be read as Evidence, which being carried in the Affirmative by 95 Voices against 37, another Motion was made and the Question put, Whether the Advice intlosed in the Letter from Sir *Luke Schaub* be read, tho' this House be not acquainted with the Person who gave that Advice.

Extracts of Letters from abroad allow'd to be read as Evidence.

Several Lords enter their Dissent thereto.

This Question being also resolv'd in the Affirmative, the following Lords enter'd their Dissent, *viz. Strafford, Osborne, Craven, Salisbury, Northampton, Scarsdale, Aylesford, Gower, Powlet, Fr. Cestrien, Masham, Anglesea, Cowper, Brook, Litchfield, Bruce, Denbigh, Guilford, Dartmouth, Trevor, Foley, Exeter, Montjoy, Weston, Willoughby de Broke, Compton, Cardigan, Bingley, Ashburnham.*

Intercepted Letters decypher'd, read as Evidence.

Then the Council for the Bill offered to produce Copies of Letters intercepted at the Post-Office, Part of them written in Cypher, and afterwards decypher'd ; but the same was strenuously oppos'd by the Bishop and his Counsel, who put several puzzling Questions to Mr *Willes*, one of the Decyphers, about the Nature and Certainty of their Art. This lasted till about Nine in the Evening, when the Prisoner and the Counsel on both Sides being withdrawn, a Motion was made, and the Question put, that Mr *Willes* be obliged to produce his Key of the Cypher : This Question being resolv'd in the Negative, by 80 Voices against 43, another Motion was made, and the Question put, That the said Letters intercepted at the Post-Office and decypher'd, be read as Evidence, which was carried in the Affirmative, and then the further Hearing of that Affair was put off to the next Day, and the Bishop remanded to the Tower.

Motion for Mr Willes to produce his Key of the Cypher ; passes in the Negative.

The next Morning he was brought again to the Bar, where the Counsel for the Bill, going on with their Evidence, offer'd to read the Examinations and Confessions of *Philip*

Neynse,

Neynoe, deceas'd. This was strongly oppos'd by the Bishop Anno 9. Geo. I. and his Counsel, but most of their Objections having been already over-ruled in the Cases of *Plunket* and *Kelly*, and the Lord *Townshend* having affirmed, and Mr *Robert Walpole* attested the said Examinations, it was resolved, by a Majority of 85 Voices against 41, that they should be admitted as Evidence; upon which the said Examinations were read. Then the Counsel for the Bill offered to read several Letters intercepted at the Post-Office: Upon which the Bishop desired and insisted, That the Clerks of the Post-Office be examined to these two Questions, I. 'Whether they had a sufficient Warrant and Authority to stop and open the said Letters, and from whom they had such Authority? II. Whether the Clerks of the Post-Office who copied the Letters, whose Originals had been forwarded, had intercepted the said Letters themselves, or received them from some Body else?' The Bishop and the Counsel on both Sides being withdrawn, the following Question was put, That it is Resolution to inconsistent with the publick Safety, as well as unnecessary suffer no farther for the Prisoner's Defence, to suffer any farther Inquiry to Inquiry into the be made upon this Occasion into the Warrants, which have Secretary of State's Warrants been granted by the Secretaries of State, for stopping and for intercepting opening of Letters which should come or go by the Post, or Letters.

1723.

Neynoe's Examination read.

into the Methods that have been taken by the proper Officers at the Post-Office, in Obedience to such Warrants. After a Debate, that lasted till near Eleven at Night, it was carried in the Affirmative, by 82 Voices against 40.

Dissentients'.

I. We humbly apprehend, that in all criminal Prosecutions, the cross examining of Witnesses is necessary for the Defence of the Prisoner, and for the Satisfaction of those who are to judge of the Facts alledged against him, in order to the discovering of Truth, and detecting any fraudulent Evidence which should be offered; and the Resolution above recited does, in our Opinions, debar the Bishop of *Rochester*, and every other Person concern'd, from asking any Questions of the Clerks of the Post-Office, who are brought as Witnesses to the Bar, relating to the stopping and opening the Post-Letters, tho' Letters pretended to be stopped and opened at the Post-Office are read as Evidence against the Prisoner; and we conceive, that the preventing any farther Inquiry on these Heads must lay this House under great Difficulties, when they come to form a Judgment on those Letters, the Validity of which will, in a great Measure, depend on the Proof given of their having been truly stopped and opened as asserted.

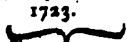
Protest against the said Resolution.

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II.

Anno 9. Ges. I.
1723.



II. We apprehend it to be impossible for this House to determine, that the Inquiry which is desired is unnecessary to the Defence of the Prisoner, till he shall come to make the Application; and, we conceive, he should have the Liberty of asking what Questions he or his Counsel think proper of the Clerks of the Post-Office, relating to the stopping and opening of Letters, without acquainting the House what Use he intends to make of their Answers; and this appears to us to be highly reasonable, essential to Justice, and warranted by the Methods which this House has hitherto allowed the Counsel for the Support of the Bill to proceed in, who have, during the whole Course of this Examination, reserv'd the Application of the Evidence they have offered till they should judge convenient to make it.

Northampton, Foley, Asbburnham, Litchfield, Exeter, Brooks, Aylesford, Fran. Cestriens, Uxbridge, Denbigh, Stratford, Poulett, Compton, Bruce, Craven, Bingley, Pamfret, Trevor, Hay, Weston, Wharton, Willoughby de Broke, Scarsdale, Anglesea, Batburs, Mafham, Osborne, Gower, Montjey, Cardigan.

Farther Proceedings against the Bishop of Rochester.

May 8. The Bishop of Rochester being brought again to the Bar, the Counsel for the Bill went on with the rest of their Evidence. In this Day's Proceeding *William Wood*, late Coachman to the Bishop, being produced as a Witness, the Bishop ask'd him, what Reward he had received, or been promised, to depose against his Master? Which being represented as a Brow-beating of the King's Evidence, the Lord Chancellor reprimanded the Prisoner for it. The Counsel for the Bill having summ'd up their Evidence about Four in the Afternoon, the Lords adjourn'd to the next Day.

Witnesses produc'd to invalidate Neynoe's Examination.

Accordingly on the 9th, the House being sat, and the Bishop brought to the Bar, his Counsel made some Remarks on the Evidence produced on the other Side, and open'd the Evidence they had to offer in Defence of their Client. Their chief Business being to invalidate *Neynoe's* Examinations, on which great Stress was laid by the Counsel for the Bill, they observed, ' That what he pretended to know of the Bishop of Rochester was only by Hearsay from Mr *George Kelly*: But that as Hearsay was never admitted as legal Proof, much less ought it to have any Weight in this Case, where a dead Man's (*Neynoe*) Hearsay was denied, and contradicted by *Kelly* now alive; That *Neynoe's* Examinations were neither sworn to, nor signed by him; but, were he still living, and offer'd to confirm them by Oath, they could hardly be of any Force, since they were ready to prove, That

That he was drawn in to say and unsay, and to affirm or deny any Thing.' To this Purpose they offered to examine three Witnesses, *viz.* Mr *Bingley*, Mr *Skene*, and Mr *Stewart*, who were in the Custody of a State Messenger at the same Time with *Neynoe*, and had an Opportunity to converse or to communicate together; but before they enter'd upon that Examination, the Bishop taking Notice that Mr *Walpole* was at the Bar, said, It was not proper he should hear Depositions that affected him: Hereupon Mr *Walpole* withdrew.

Anno 9. Geo. I;
1723.

Mr *Bingley* being sworn, related what he knew concerning *Philip Neynoe*, with whom he had a great Intimacy, and was stop'd with him at *Deal*, as they endeavour'd to go over into *France*; particularly, 'That *Neynoe* having been taken up some time before, upon Account of several scurrilous Libels he had writ against the Government, and publish'd in the *Freeholders* Journal, and being under an Apprehension of being treated with the utmost Severity of the Law on the one Hand, and tempted with large Promises of Reward on the other, he consented to be employed by the Ministers, and to accuse the Earl of *Orrery*, the Bishop of *Rockefter*, and several other innocent Persons, of having form'd a Conspiracy against the Government; That the Lord *Townsend* declar'd a Prejudice, upon some private Account to the Bishop, and was resolv'd to pull down the Pride of that haughty Prelate: That Mr *Walpole* instructed him (*Neynoe*) in private, what he should say in his Examinations before the Lords of the Council, and, at divers Times gave him great Sums of Money: That *Neynoe*, who all this while had nothing in View, but to impose on those who oblig'd him to act so villainous a Part, and to get out of their Reach, proposed to the Ministers his going over to *France*, in order to gain farther Intelligence of the Conspiracy, by narrowly observing the Steps of the Earl of *Mar*, Lord *Lansdowne*, and other Persons suspected of being Agents for the Pretender in *France*; That Mr *Walpole* seem'd at first to approve this Overture, but, whatever was the Reason, he afterwards changed his Opinion, and suspecting *Neynoe's* true Intention was to cheat him, and give him the Slip, he caus'd him to be watch'd, and stop'd at *Deal*.

This Deponent (Mr *Bingley*) added, 'That he himself had been tamper'd with, and offer'd a Reward of 300 *l.* if he would turn Evidence against the Bishop of *Rockefter*, which he refused to do.

The Lord Viscount *Townsend*, who, as well as Mr *Walpole*, was charged by this Deposition, in his own Vindication observed, 'That no Regard ought to be had to the Evidence of a notorious and zealous *Jacobite*, who had been

Mr *Bingley* examined for that Purpose, and reflects on Lord *Townsend* and Mr *Walpole*.

His Lordship's Vindication.

Ann 9. Geo. 3. convicted, whipt, pillory'd, and imprison'd at *Dublin*, upon two Indictments, one for publishing a treasonable Book called *NERO*, the other for speaking treasonable Words, and this after having taken the Oaths to the Government : All which, in his Opinion, made him a less credible Witness in the present Case, than if he had, in a common Trial, been proved a perjured Witness.

Mr Skeene examined ;

Mr *Skeene* confirmed, upon Oath, a great Part of Mr *Bingley's* Deposition, adding, ' That *Neynos*, pursuant to his Instructions from the Minister who employed him, had proposed to him to be Evidence against the Lord *Orrery* and the Bishop of *Rochester* ; but that having rejected his Proposals, he confess'd to him and Mr *Stewart*, that all he had done was only to amuse the Ministers till he could get out of their Power, but that he had rather be torn in Pieces by wild Horses, than be an Evidence, and confirm by Oath, before a Court of Judicature, what he had been obliged to say before the Lords of the Council ; That being one Day in private with the Minister abovementioned, he was struck with such Remorse and Indignation at the infamous Part he forc'd him to act, that he was upon the Point of seizing on a Sword that lay on the Table, and running him through, in order to put an End to the Conspiracy. And that this Deponent having asked *Neynos*, Whether he knew any Thing of a Plot ? He answer'd, that he knew of two, one of Mr *Walpole's* against some great Men, the other of his own, which was only to get Eighteen or Twenty Thousand Pounds from Mr. *Walpole* : And whatever became of the first, he doubted not but he would have brought the other to bear, had he once set Foot on the *French* Shore, and had not *Bingley's* Blundering marr'd all.' Moreover Mr *Skeene* endeavour'd wholly to destroy Captain *Pancier's* Deposition, by saying, ' That he never told him any Thing, but what he had himself out of the publick News-Papers.'

And Mr Stewart ; Mr *Stewart* being also examined upon Oath, confirm'd what had been deposed by Mr *Bingley* and Mr *Skeene*, adding, ' That *Neynos* had endeavoured to engage him to turn Evidence against the Earl of *Orrery*, which he refused to do, having never spoke but once with his Lordship, to whom he was introduced by a Gentleman, upon Occasion of some Books which he was to get for him.'

And Corbet Kyndston, Esq ;

Most of these Particulars were confirmed by *Corbet Kyndston*, * Esq ; who deposed, ' That he had them from Mr *Bingley*, Mr *Skeene*, and Mr *Stewart* before Mr *Neynos* was drowned.'

This

* Member of Parliament for Shrewsbury in the first Parliament of King George I. See Chandler's History of the House of Commons, Anno 1715, p. 42.

This being over, the Council for the Bishop laboured to clear him from the most material Part of the Charge against him, *viz.* ' That he did dictate to Mr *George Kelly* the three Letters, dated *April 20, 1722*, to General *Dillon*, the late Earl of *Mar*, and the Pretender ;' suggesting, ' That it could not be possible he should, at that Time, dictate those Letters, being disabled in his Chamber, and constantly attended by some of his Servants, who were examined, and deposed, That no Stranger came near him about that Time, and for some Time before and after ; and that they never knew of Mr *Kelly's* being the Bishop's Secretary, or being intimate with him, which, had he been so, could not have escaped their Knowledge.' The Council for the Bishop read also an Affidavit from Mr *Gordon*, Banker at *Bologne*, importing, ' That he never received nor forwarded any Packets from Mr *George Kelly*, nor ever had any Dealings or Correspondence with him : ' And they likewise examined Witnesses, and, among the rest, *Erasmus Lewis*, Esq; to prove how easily Hand-writing may be counterfeited.

These Examinations having lasted till Eleven at Night, the Lords adjourned to next Morning, when the Bishop's Council endeavoured to take off the Testimony of Mr *Radick* an Engraver, who having been produced and examined by the Council for the Bill, had sworn to the Similitude of the Seal of a Letter found among the Bishop's Papers, with the Seals of some of the intercepted Letters : In opposition to which Mr. *Johnson*, and some other eminent Engravers gave their Opinions upon Oath, ' That a Seal may as easily be counterfeited as Writing, or which is the same, That a Seal engraved from the Impression of another Seal may be so perfect; as to render it impossible to distinguish the Impression of the Original, from that of the Counterfeit : ' An Experiment of which was made by a Lord, who produced Impressions of two different Seals, so exactly like one another, that one of the Engravers was deceived by them, and judg'd them to be of one and the same Seal. This Affair occasioned great Debates till Four in the Afternoon, when the Lords adjourned during Pleasure.

The House being resumed, the Bishop of *Recheſter* examined Witnesses to falsify the Deposition of *John Lawson*, Baker at *Bromley*, who, very critically, swore to all the Days and Times the Bishop went to and from *London* and *Bromley* from the 1st of *April* to the 20th of *August 1722*. And further deposed, ' That he was told by *James Day* and *Thomas Farnden*, two Servants of the Bishop, that he had a Fit of the Gout, which lasted all or most Part of the Time between his going to *Bromley*, next before his Lady's Death, and his coming to Town after she was buried; and

Other Persons
examin'd in fa-
vour of the Bi-
shop.

Anno 9. Geo. I. that the said *Thomas Farnden* also told him, that among those who frequented the said Bishop at *Bromley* last Summer, were the Lord *North and Grey*, who came very often, the Lord *Bathurst*, Sir *Constantine Phipps*, Mr *Aldridge* a Clergyman, and Mr *Wynne*, a Counsellor.* Among the rest, the Helper to *William Wood*, the Bishop's late Coachman, deposed, That he had been kept in close Custody for above two Months, he knew not for what.—Being ask'd if ever he saw Mr *Kelly* alias *Johnson*, at the Bishop's House in Town, or at *Bromley*, he answer'd in the Negative : Adding, That if he had been there, he could not have mis'd seeing, or hearing of him, because he always was about the House and Stables, and as he conversed with all the other Servants, so he knew of all the Comers and Goers. And that when he was at *Bromley*, one *Lawson* a Baker, came to him, and offer'd him a Reward of Two Hundred Pounds, (one Half in Hand) if he would turn Evidence against the Bishop, and swear that Mr *Kelly*, Lord *North and Grey*, and some other Lords and Gentlemen whom he should name to him, often came to the Bishop's House at *Bromley* : Which Proposal he rejected with Scorn.* This was partly confirm'd by two or three more of the Bishop's Servants, and other Witnesses, whose Examinations having lasted till Nine in the Evening the Lords adjourn'd to the next Day.

On the 11th of May, the Bishop being again brought to the Bar, Sir *Constantine Phipps* made a Recapitulation of the Evidence for his Client, which was enlarg'd upon by Mr *Wynne*, who, at the same Time, made some nice Observations on the Evidence given for the Bill : Which being over, the Bishop spoke in his own Defence, as follows.*

My Lords,

The Bishop's
Defence of him-
self at the Bar
of the House.

' I have been under a very long and close Confinement, and have been treated with such Severity, and so great Indignity, as I believe no Prisoner in the Tower of my Age, and Function, and Rank, ever was. By which Means, what Strength and Use of my Limbs I had when I was first committed in *August* last, is now so far declined, that I am very unfit to make my Defence against a Bill of such an extraordinary Nature.

' The great Weakness of Body and Mind under which I labour, such Usage, such Hardships, such Insults as I have undergone, might have broken a more resolute Spirit, and much stronger Constitution than falls to my Share. Your Lordships were pleased to permit me to appear before the House of Commons, if I thought fit, lest that should be turned

* This Speech is printed from a correct Copy published by the Bishop's own Direction, and not from a Fello Edition of it, wherein several Passages are curtail'd.

turned to my Disadvantage, as, in fact, the Counsel for the Anno 9. Geo. I. Bill have done their utmost towards it.

‘ I should not have thought to decline any Occasion of justifying myself ; but I beg Leave to tell your Lordships some of the Reasons why I did not appear there, and make use of the Leave your Lordships gave me. [See p. 272.]

‘ After seven Months of close Imprisonment, I was not a little surprized when I heard it was thus resolved, by the House of Commons *March 11.* ‘ That it appears to this House, that *Francis, Lord Bishop of Rochester**, was principally concerned in forming, directing, and carrying on a detestable Conspiracy, &c.’

‘ Upon duly weighing which Resolution, and the Copy of the Bill, I found not any Thing charged in the Bill, but what was fully contained and previously resolved in this Vote, and therefore whatsoever should have been offered on my Behalf to that House, would have been an express Contradiction to it. And what Hopes I could have of Success in such an Attempt, I need not say ; what they sent me, was the Preamble of the Bill only, which they could not alter, consistent with what they had resolved.

‘ The Bill itself was to inflict Pains and Penalties, which followed, but there was no Room to object against any of those which they had not then declared ; they have since been added, and sent up to your Lordships in like Manner, without any Oath made, or any criminal Act proved against me by any living Witness. And is a Person, thus sentenced below, to be deprived of all his Preferment, and his very Function, and to be a perpetual Exile, and to be render’d incapable of any Office and Employment ? to be one whom no Man must correspond with by Letters, Messages, or otherwise ? And, my Lords, one who is a Bishop of the Church of *England*, and a Lord of Parliament ?

‘ It is the first Instance wherein a Member of this House hath been so treated and prejudged, and (as I have once before said to your Lordships) I pray God it may be the last, and that such Precedents in this Kingdom may not be multiplied in After-Times.

‘ My Counsel have amply done their Part, by arguing the Points of Law, by explaining and enforcing the Evidence, and shewing the little Colour, Appearance, and Shadow of Proofs against me, (permit me to call them so) by answering what hath been offer’d against me, and by setting out the Consequence which such a Bill, founded and carry’d on in such a Manner, and which enacts such severe Penalties, must and will be attended with.

‘ Yet it becomes me to say something for myself, lest my
1723. R r Silence

* See Chandler’s History of the Commons, p. 301.

Anno 9. Geo. I.
1723.



Silence be construed Consciousness of Guilt, or at least an Unwillingness to enter into Matters of so dark and perplexed, so nice and tender a Nature, as if I was not able, or did not care to clear and explain myself, and rather chose to leave it to the Management of others: I thank God I am under no such Restraint, and can speak to your Lordships on this Subject with great Freedom and Plainness.

But before I proceed, I beg Leave that I may represent to your Lordships some particular Hardships under which I have laboured:

My Lords,

The first is reading Extracts of anonymous Letters, without suffering any other Parts of the same Letters, tho' relating to the same Subject, to be read.—— Another is, Excusing the Decyphers from answering Questions asked by me, and which I thought necessary for my Defence, lest they should reveal their Art.—— The next is, not suffering me to be answered by the Clerks of the Post-Office, lest the Secrets of that Office should be discovered. Another, was not suffering a Person, who had been at least ten Years out of the Secretary's Office, to answer any Questions which came to his Knowledge by being some Years in that Office.

Another, is reading Examinations neither dated, signed, or sworn to.

Another, is reading Letters supposed to be criminal, writ in another Man's Hand; and supposed to be dictated by me, without offering any Proof, that I either dictated them, or was privy to them.

Another, is not allowing me Copies of the Decyphered Letters, tho' petitioned for, till the Tryal was so far advanced, and I so employed and weakened by it, that I had not sufficient Time to consider them. Another, is not allowing me to read out of the Collection of Papers before the House any Part of them, in order to discharge myself, but what hath been read by Clerks.—— And all this in a Proceeding where the Counsel for the Bill profess they have no legal Evidence, and that they are not to be confined to the Rules of any Court of Law or Equity, tho' as often as it is for their Service, they constantly shelter themselves under it.

My Lords, these are the Hardships which I previously mention, and humbly lay before your Lordships.

By your Lordships Leave, I proceed now to make that Defence, as well as I am able to make it in the Condition of Health I am now in, humbly praying your Lordships, if I find myself in any Degree sinking under it, that you will indulge me, and allow me a little Time to go on. The general Charge of the Bill, is, That I have been deeply
concerned

concerned in forming, directing, and carrying on a wicked and detestable Conspiracy, and was a principal Actor therein. Anno 9. Geo. II.
1723.

The Charge is divided into two Heads :

‘ First, That I traiterously consulted and corresponded with divers Persons, to raise an Insurrection, &c. in this Kingdom, to procure Foreign Forces to invade it, &c.

‘ Secondly, That I traiterously corresponded with the same Intent with Persons employed, &c. But neither Part of this Charge hath been made good by the Council for the Bill, nor have they proved, nor attempted to prove me at one Consultation, nor is there any Thing tends towards such a Proof, except the exploded Story of the *Burford Club*, and two or three Hear say Informations which were mentioned of my Lord *Strafford*, and others [See p. 266.] as concerned in the Management of this Affair. I have met all these Lords, I own it, but at different Times, and upon the best Recollection I can make, I never was in all my Life with any three of them at once, unless perhaps about some general Matters or Affairs depending in Parliament. The Earl of *Strafford* hath visited me, and I have, when in Health, dined with him once at his House. At my Lord *Norib's* Table I have not eat ; tho' I have great Honour for him, yet I never had any Intimacy with him, especially since the Affair of the Dormitory, wherein he appeared so against me, that I certainly had lost the Cause, had not his Affairs called him to *Holland*.

‘ *Lawson* hath sworn, that this Lord did often visit me at *Bromley*, but in truth he never was there above twice or thrice in all his Life-time.

‘ I have not been once these two Years with Lord *Orrery* on any Business whatsoever ; we twice dined together at the House of a Person, whose Name if I should mention, your Lordships would not think there was any Harm at all in dining there. Sir *Harry Goring* I never saw in all my Life, till he saw me at *St James's*, and he was but once at *Bromley* ; and the Occasion of his coming to me, was his placing four Sons at *Westminster-School*, and intending to breed up some of them to the Gospel : The last Time I saw Sir *Harry Goring*, was about twelve Months ago when I promised to bring down one of his Sons to be upon the Foundation ; and I shall be sorry if I can't be as good as my Word.

‘ Your Lordships will excuse me for being so particular ; when you consider how dangerous the Charge is, and how fit it is to clear the Persons charged, from such mischievous Correspondence ; especially since it is with these, and with these only that I have been speaking of, it is insinuat-

Anno 9. Geo. I. ed that I have held Consultations to forward the Conspiracy.

1723.

‘ The first is an Intent, and indeed a Conspiracy, without a Consultation.

‘ But how hath that too been made good ? Your Lordships will observe, that there is not one Overt-Act, or Circumstance of Time or Place, mentioned, proved, or alledged. I have not therefore consulted or conspired at home.

‘ The next, and the only material Part of the Charge, is corresponding abroad with the *Pretender*, &c.

‘ A high and heinous Accusation, strongly asserted, much insisted upon, but how maintained, is the Question ?

‘ The true State of this Part of my Charge, as well and as fully as I can recollect, is this, (I will not in any Degree dissemble before you :) First, That I did on the 20th of *April*, 1722, dictate three Letters to *Mr. Dillon*, the late Lord *Mar*, and to the *Pretender* himself, under the feigned Names of *Chivers*, *Musgrave*, and *Jackson* ; to which Letters the Names of *Jones*, *Illington*, and 1378, were all by my Direction subscribed.

‘ Secondly, That afterwards two Letters in Answer to these two sent to *Mar* and *Dillon*, one dated *May* 11th, and the other *July* the 25th, under the feigned Names of *Mosfield* and *Digby*, were intercepted.

‘ Thirdly, There is a certain intercepted Correspondence between the *Pretender*’s Agents abroad, and *Kelly* here, carried on by him ; and that I was at the Head of it, and am answerable for what it contains.

‘ This is the Substance of my Charge, all other particular Circumstances are made use of, as they thought would give Light and Strength to one or other of those Articles.

‘ As to the first of these Points, *That I did dictate these Letters* ;

‘ That it could not be possible that I dictated these Letters, hath been made out to your Lordships by such a Concurrence of Evidence, so clear, full, and legal, as I persuade myself can have left no Doubt remaining upon any candid and indifferent Person ; a plain Matter of Fact, supported by such Testimony, cannot be overthrown by little Gueeses and consequential Surmises.

‘ My Lords, I was under the known Difficulty of proving a Negative, which in many Cases is not to be done ; but it so happens in this Case, that peculiar Circumstances attend it as to Point of Time. My being disabled in my Chamber, and attended before and after that Time by some of my Servants, and receiving frequent Messages from others : The agreeing Testimony of my Servants, that no Stranger came near me about that Time, and for some Time before and after, and the full Evidence of the School at

Westminster,

Westminster, hath enabled my several Servants to recollect Anno 9. Geo. II.
the Time, and to furnish such a Proof of my Innocence in
this Matter, as is not to be mistaken, and shews the Clear-
ness of the Impossibility of it. 17:3.

‘ The Clerks of the Post-Office swear, That they believe these three Letters to be the Hand-writing of Mr *Kelly*, my supposed Amanuensis: Your Lordships will remember, That their Oaths were at four Months Distance from the Time of seeing those Letters; during the whole Series of which Time, it never hath appeared that they have compared one Original with another; and the only Original, as a Specimen, hath been proved, at your Lordships Bar, not to be the Hand-writing of Mr. *Kelly*; and be pleased to remember the very Supposition of Mr. *Kelly*’s being my Secretary, or any ways intimate with me, hath been fully sworn to be false.

‘ If it be said, Who then writ these Letters; and with what View were they writ? The Answer to this is obvious, my being here at your Lordships Bar sufficiently explains it. It is enough to prove that I did not write or dictate them, and I have proved it abundantly. Let but any momentous Part of the Charge against me be made out with half the Evidence, and I will submit without any Dispute; eight or nine such Witnesses would have borne down the Evidence of one or two that had sworn.

‘ But where there is none on the one Side, but all on the other Side, who appear, and that give direct positive Evidence, can your Lordships deliberate a Moment for the Reason of giving your Judgment, which ought always, in doubtful Cases, to lean to the doubtful Side; and so taking this Point as it stands, there is an End of the whole Matter; for all other Insinuations, feigned Names, and obscure Passages in Letters, depending upon this, must fall together.

‘ As to the other Part of the Accusation, when it is said the Letter to *Jackson* was a Letter to the Pretender, I have nothing to do with it; he that writ the Letter, when known, will best be able, and most concerned to disprove it.

‘ Since this Objection carries a very odd Sound, I shall briefly shew your Lordships how that stands: *Jackson*, in a Cypher of *Plunket*’s, is said to denote the Pretender; That Cypher consists of one hundred and fifty Names, of which not one is used in any of the Letters attributed to Mr *Kelly*; three or four of these Names are used by Persons supposed to have writ to Mr. *Kelly* from Abroad, but not one of them is used by him; nor does *Jackson* ever, in his Part of the Correspondence, stand for the Pretender, but he is always under other Appellations: *Nay*, *Plunket* himself, in all his Letters writ in decyphered
Names;

Anno 9. Geo. I. Names, never files the *Pretender, Jackson*, but either *Joseph*, or *Jepson*. — Why should a Name used in *Kelly's* Correspondence, be explained by *Plunket's* Cypher, when *Kelly* appears to be no ways acquainted with him, and *Plunket* himself did never dictate to him? I forbear Repetition; I only add, that at this Rate there is nothing that may not be proved.

‘The Letter to *Dubois* there is little said of, because there is no use made of it; it is charged in the *Report* as a Letter which I had received from Abroad. The Tables are now turned, and I myself designed to have sent this Letter to a feigned Correspondent, but kept it among my Papers under my Seal: For what end? the Letter itself is an errant Delusion; Why, to furnish Proof which is much wanted, of my receiving Letters that were directed *Jones* and *Illington*; and it is very strange I, who am represented as being so very cautious, should be so negligent in this, and preserve something that is of no Use, and yet might hurt me so much when discover’d.

‘It is absurd to think, that I should by that Means mention the Name of my Correspondent, and mention the Name of *Johnson*, which the Committee of the Lower House observe was constantly with me.

‘I know not what farther can be said for this Matter, till the Counsel have farther explain’d it, and shewn what use they make of this Letter, which hath given your Lordships so much Trouble, and which I own I do not comprehend.

‘There is still a fifth Letter, which I have acknowledged to be my Hand; that which was taken on my Servant. Mr *Reeves* * hath made some uncharitable Observations upon it; which, for ought I know, may be allow’d as the Form of Law in the Ordinary Courts; but, I am sure, in a Court of Equity, the most favourable Construction ought to take Place. I have taken Minutes of his Observations, and I think they are these: He observes, that the Bishop doth not in his Letter insist on his Innocence in general, but considers only what Evidence doth affect him.

‘It comes out at last for whom my Letter was designed; and I think that an Answer to Mr *Reeves's* first Observation, and I shall explain it no farther. He observes next, tho’ I clear myself from the Knowledge of *Lager*, *Neynes*, &c. there I say nothing of *Kelly*.

‘The Gentleman I designed the Letter for, knows it was an Answer to one wrote to me about *Lager*, and will swear it himself, if there was Room for it.

‘The

* One of the Council against the Bishop; afterwards Chief Justice of the Common Pleas.

‘ The third Observation is, where speaking of myself, I say, “ If I cannot ward the Blow, I must be a Prisoner some Years without Remedy ;” from which he was to infer, not in that good natur’d way he generally did, my Meaning must be, that I was conscious of Guilt. Anno 9. Geo. I.
1723.

‘ I apprehended an Impeachment would have been lodged and never prosecuted, as in the Case of my Lord *Danby* and the Earl of *Oxford* ; and then I should have lain without Tryal. and without Bread.

‘ The second Article of my Charge, is the two Letters from *Mar* and *Dillon*, under the feigned Names of *Mosfield* and *Digby*, which were intercepted.

‘ One of these they have dropt.

‘ That I received them, is not pretended ; both Letters, tho’ without a criminal Expression or Word of Business in either of them, would yet have affected me in some Degree, if received by me ; and I was the Person, as is supposed, to have writ the Letters to which they are Answers. ‘ That I used to have any Correspondence ; is that proved ? Is not one and the same necessary in order to ascertain the Charge ?

‘ Any Man that pleases may write to me, and take those Names upon him ; I am not to answer for that, unless I have appeared to receive them, and kept up the Correspondence.

‘ The Letter from *Mosfield*, dated *May* 11th, cannot be reasonably thought to have been wrote with any other View than that of being intercepted, and of fixing upon me the Letter of *April* 20th.

‘ This Letter is committed to the common Post-Office, and sent upon this Errand ; one may doubt who writ it, but one cannot doubt with what Design it was writ : Your Lordships Wisdom will see thro’ those malicious Disguises, and not make me account for Letters, which have been banded to and fro between two unknown Correspondents, on a Design to raise a Suspicion of a third Person, altogether a Stranger to what is writ. And here I desire, that the Observation made by one of my Counsel may not be forgot ; that is, all the intercepted Letters from Abroad mention Persons that lay hid under secret Names, and are discovered by doing of such Deeds, and by such Circumstances, as will fasten those Names upon them : Tho’ the Committee were not at a Guess, yet they were often at a Loss.

‘ In my Case the fictitious Names applied to me are often attended with such Descriptions and Circumstances, as very naturally lead those that offer these Letters to fix them on me ; the Writers of them use all their Art not to disguise,

Anno 9. Geo. I. guife; but to open the thing, and feem to be in Pain left
 1723. they fhould not be well enough underftood.

‘ This being contrary to the Method of Referves in all other Cafes, fmells ftong of a malicious Defign.

‘ The Letter of *July 25th*, from *Digby* to *Wefton*, is not fo well contrived as it fhould have been, yet I am to be underftood by it, becaufe of the Circumftances I was then under, which the Writer was apprifed of.

‘ Thefe are the only two Inftances of Letters fuppofed to be writ from Abroad; they are not confiftent; fhall they affect me in fo High a Manner?

‘ It remains to be confidered in the third Place, whether there was a fupported Correspondence between the *Pretender* and his Agents and Mr. *Kelly* here? Whether I was at the Head of it, and am juftly to anfwer for it? Mr. *Kelly*, I hear, hath owned at your Bar, and declared, [See p. 292.] which I alfo declare, I never knew a Line of any Letter he writ to Foreign Parts.

‘ I meddle not with what concerns him any farther than when it may affect me.

‘ The chief Part is the Prefent of the Dog, the Account of that is in a Letter to *Hatfield*, dated *May 5th*, not figured; in which are thefe Words, *The little Dog was fent ten Days ago, and ordered to be delivered to you*: But there is no Intimation in this, or any other Letter from Abroad, that this Prefent was intended for me.

‘ In two Letters from hence, by whom writ it doth not appear, fome body is meant under the different Names of Mr. *Jones* and Mr. *Illington*, in fuch Manner as defigned for the fame Perfon; but the Circumftances are neither applicable to myfelf or my Wife, or me particularly. The Letter dated *May 7th*, from *Hatfield* to *Mufgrove*, being five Days after the Burial of my Wife, cannot mean her; and being but five Days after, it can as little mean me: So that the Writer of this Letter muft either have known nothing of my Family-Affairs, or if he did, muft diflemble his Knowledge of them, to raife a Suspicion; and in either Cafe what he fays is not to be regarded. The Surgeon and Mr. *Kelly* only knew any thing of this Matter, and they can beft clear it.

‘ Mrs *Barnes*, ſhe varies, and ſometimes the Dog is for me, and ſometimes for her.

‘ As for myfelf, I never asked for, received, or ſaw this Prefent, nor know any Thing of it, but from common Fame; nor have I to this Day had any Message or Letter whatfoever concerning it. The End of this Defign ſeems to be, to point me out by the Name of *Jones* and *Illington*.

John, subscribed to the Letters of *April* 20th, by using them again in relation to this Present. Annō 9. Geo. 1.
1723.

‘ And perhaps they are not much in the Wrong to think, that one intercepted Dog should be of as much Use as ten intercepted Letters. Both Contrivances then must have succeeded, had I not been able to prove that those Letters were not writ with my Order or Knowledge ; and therefore the Use of those Names, in subsequent Letters, is a Continuance of the Fraud, and this obviously runs through the whole of the Correspondence ; for wherever the Names of *Jones* and *Illington* are, they are used in applying them to me, because they are the same.

‘ These Points have not only been deny’d, but disprov’d with all Manner of Credence and Clearness.

‘ My Council have shew’d, that all these suspicious Correspondences are to the last Degree absurd to apply to me, and no one would apply them : That I could not order the Letters of the 20th of *April*, to which the Names of *Jones*, &c. are subscribed, I think is plain, and then the Evidence falls or depends upon it.

‘ As to the Journeys to and from *Bromley*, where the Prisoner *Kelly* had frequent Access to me, and therefore I might probably dictate those Letters, the Council for the Bill have not open’d themselves on that Head ; but your Lordships have heard it made out, and because it is material I shall repeat it.

(*Here Wood’s Examination was read.*)

‘ By all these Accounts, nothing could have been easier for the Persons themselves to manage here, than getting an Account of my Neighbours in order to render the Contrivance more plausible.

‘ That Mr *Kelly* is no Stranger to me I own ; but that he is in any Degree intimate with me, or frequently saw me, I deny ; and what Evidence is there from them to the contrary ; or how is this solemn Denial at your Bar contradicted ?

‘ The Chairman says, He carry’d him twice or thrice to the Deanry three or four Years ago ; and this *Browne*, the Chairman, he swears he carried me once, in three or four Years Time. I believe he may. The Porter he says, That he brought a Letter and some Stockings from *Kelly* to me. The Foundation of this Story is true ; for Mr. *Kelly* used to furnish me with Stockings and Gloves ; not but that the Circumstance of the Porter coming up to my Bed-chamber at that dirty Time of the Year, is very extraordinary ; and even this Evidence owns, he was never sent by me to him.

Now, on the other Side, there is the Evidence of almost all my Servants, who have, upon Oath, attested, that they

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do not know either the Name, or the Face of Mr. *Kelly*, which could not possibly be, did he use frequently to resort to me. Such a slight Acquaintance, as I had with him, could not be any Temptation to enter into Secrets with him of such a dangerous Consequence as these are, which the *Report* insinuates to have pass'd between us ; however, Suspicion is not now the Business ; they that prove something, may be allow'd to suppose more ; they that prove nothing, have no Right to indulge their Suspicions and Conjectures to the Ruin of any Man : Twenty Probabilities, allow'd to be such, are not equal to any one Matter of Fact well attested ; it may strengthen the Fact, but cannot support it. They cannot be Evidence themselves, because one Probability may be set against another.

‘ I use this Distinction between Evidence in Law, and reasonable Evidence, because the Council for the Bill have asserted something like it.

‘ I own, I always thought the publick Law of the State, the publick Reason of the State ; and whatever it is in another Country, yet, in this Country, no Evidence can be reasonable that is not legal : But I ask, What Sort of Evidence, either in Reason or Law, is brought against me ? How am I prov'd to consult and correspond to raise an Insurrection against his Majesty and his Kingdom, and to procure a foreign Force to invade the same in Favour of the *Pretender* ?

‘ How am I prov'd, in the second Place, to have corresponded with the same *Pretender*, and with Persons employ'd by him ? Is one Article of these Charges made out against me with any Colour of Reason ? Suppositions without Proof, Suppositions disprov'd, and shewn to be vain, and unjust.

‘ If the Proof in these Cases wants Strength, can the Hearsay of *Neynoe* supply the Want of Proof, and render it valid, since *Neynoe* pretends, for ought that appears, not to have known any thing of me ; he only heard *Kelly* say so, and Mr *Kelly* denies it ; and there is, I think, no Reason why such a dead Evidence should affect me, or *Kelly* himself ; much less me through him. Was *Neynoe* alive, and *Kelly* dead, and incapable of contradicting what *Neynoe* said, I believe what *Neynoe* said would not be of any Weight : Besides, what *Neynoe* dead says, and *Kelly* now alive denies, ought not to have any Force.

‘ Concerning Hearsay Evidence in general, and concerning the due Regard to it, I humbly desire your Lordships, that a Passage may be read out of Sir *John Fenwick's* Bill of Attainder.

(*The whole Preamble read.*)

‘ My

‘ My Lords, I humbly desir’d to have this read, because I thought it would take away a Distinction between legal and parliamentary Evidence ; that what was not legal might be parliamentary. I believe here is a Condemnation of him by Parliament ; therefore I think the Condemnation of him must be by parliamentary Evidence. It is recited in this Act as one of the Inducements that mov’d the King, Lords, and Commons to pass the Act, ‘ That Sir *John Fenwick* had ‘ contriv’d and fram’d several Papers, &c. only by Hear-
‘ say.’

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‘ Shall that be accepted in this Parliament for Evidence, which is declared the only Motive of attainting a Man in another? If it was judg’d hard in Sir *John Fenwick*’s Case to charge a Man by Hearsay, can the being thus charg’d be any Proof against me? Sure the House of Commons in 1696, that brought that in, would have so thought, nor would those of your Lordships consented here, or elsewhere, to have pass’d it.

‘ As for those that did not consent, I will venture to say, I am exceedingly puzzled to know why they did not oppose Sir *John Fenwick*, but favour’d his Case, and are yet against me. Is the Guilt objected to me, if prov’d, in any Measure like his? Or is there any Comparison between the Proof against him and me?

‘ As to the Paper and Information given in by *Nynoe*, and printed in the *Appendix*, it is plain he was drawn in to have sworn backward or forward, to have affirm’d or deny’d any thing. He knew a certain Lord of the Council, that gave me Notice of my being taken up some Days before it happened. He knew what Use and Purpose the Protests of your Lordships were chiefly design’d for and calculated ; and it appears by his Paper that was taken in his Pocket after his Death, that he had undertaken to give a positive Account, and design’d either to ask or receive such a Sum of Money.

‘ ’Tis said he was the late Earl *Mariball*’s Bedfellow for several Months, and had drawn up Heads for Memorials to be delivered to the *Regent* ; but he had kept no Copies of these Heads, or foul Draughts, which would have shewn whether they were given in to promote it, or discover it ; in either Case the Evidence of being then employed, would have been of Service ; but they have not been able to produce a Line of such Heads or Memorials, yet the *Report* of the House of Commons, upon the Basis of these Memorials, builds the whole Fabrick. He knew that I went under the Names of *Jones* and *Illington*, and undoubtedly he knew Mr. *Dubois* : If the Scheme of writing that Letter myself had been seen, he would have found out a Reason for the Cor-

Anno 9. Geo. I. 1723. response; and 500 l. would have made him affirm, that he carry'd the Letter himself. He knew the *Pretender's* particular Opinion of me, or of any Body else; and that he rely'd on Advices from me: How did he know that? He told him so. Who told him? It is not suppos'd Mr. *Kelly* had it from himself, but from Persons of high Estate, and that were near the *Pretender*.

' Let me speak, my Lords, as always I hope I shall, with that Modesty as becomes Justice, but yet with Freedom to you.

' Hath nothing been open'd to you concerning this Man's Character, and his secret Transactions? Is it possible to believe this Pretender to Secrecy, could have had or shall he still have any Degree of Weight, that threw away his Life rather than venture to stand to the Truth of what he had said before his Death; and then he could have been contradicted, or Pangs of Conscience might have made him unsay what he had said; but a dead Man can retract nothing; what he hath writ, he hath writ; the Accusation must stand just as it did, as far as it concerns him; and we are deprived of the Advantage, which Truth and Remorse once extorted, and would have again extorted from him; however, I would have been glad to have had all that ever this Wretch said, and would hope that by comparing of the several Stories, which he several times told, some Light might have been gain'd, which is now wanted: ——— Particularly by the Knowledge of what he said freely and voluntarily, when he was in good Humour, and before his rough Usage, on his Return from *Rome* had frighten'd him; but I think we have the Evidence only of a few of the last Days of his Life, all the preceding Time is Blank. He underwent frequent Examinations, but they were not, it seems, so maturely weigh'd and digested, as to be thought worth the committing to Writing; but he is gone to his Place, and hath answered for what he hath said at another Tribunal. I desire not to disturb his Ashes, farther than what is necessary for my own Defence.

' Your Lordships will observe first, the Inconsistency of some Part of the Charge. Secondly, the Improbability of it. The *Report* takes Notice of three several Periods, or Stages of Time, when by Consequence of some Informations from the *Regent*, the Design did not take Place; the first was, during the Election; the second was, the King's going to *Hanover*; and the third was, the breaking up of the Camp: There is not the least Hint as to the last of these three Designs, in any of the Papers; tho' in the Recital of the Bill it is mentioned as the third Part of the Plot, and the

the most detestable Part of the Design, to lay violent Hands on his Majesty and his Royal Highness. Anno 9. Geo. I.
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‘ There is not the least Colour of Proof, as to the first Part of the Conspiracy, which was to take place at the Election ; their only Reason for that, is from a Passage, where it is said, that the present Opportunity is elaps’d ; that is, the Opportunity of the Election.

‘ I shall recite the Passage, as it lies in the intercepted Letter, and make some Reflections on it : *Notwithstanding the Opportunity is elaps’d, (says the Writer to Jackson) I agree with you, another may offer before the End of the Year, tho’ not perhaps every way so favourable.*

‘ The Committee suppose this Letter to be from *Kelly*, and dictated by me ; and they suppose the Words to refer to the Time of the Election ; and from those Suppositions infer that I knew something of it. On the contrary, I shall on the two first Suppositions shew the Impossibility of it ; if this was a Letter from me, or from any other Person dictated by me to the *Pretender*, I must write as in Answer to some Letter sent from them to me, in repeating the Expression ; and his Opinion in the Letter must have been founded on Intelligence before receiv’d : This Intelligence, considering the Distance between *London* and *Rome*, must have been communicated two Months, if not longer, before the Date of this Letter ; if we go back two Months, and talk of the Election being elapsed, it was not begun ; consequently that Opportunity in the Letter could not possibly mean *the Time of the Election* ; and if so, it is impossible that it should be a Letter to the *Pretender*, that can consist with the Charge of the Person’s writing in *April 1720*.

‘ If it be a Letter writ in good Earnest, it appears they had given over all Thoughts at that Time : *I agree with you*, says he, *another may offer before the End of the Year* ; and yet he finds some Words in a Letter writ ten Days after, wherein, under the Name of *Jones*, I am made to be deeply concern’d in a Conspiracy.

‘ How can this be consistent, if I writ and directed that Letter, and was engag’d in the second Part of the Conspiracy ?

‘ Both cannot be true, both may be false ; and I hope I have satisfy’d your Lordships, that as I did not dictate the one, so I was no ways concern’d in the other.

‘ Can any one believe, that under the sad Circumstance of being afflicted by the Death of my Wife, I should be concern’d in an Affair of this dangerous Nature ? Was that a Time to provide for a Stranger ? And for a Man, unless under the Power of Prejudice, to believe such an Improbability,

Anno 9. Geo. I. bility, or that I had such a Conjecture. I forbear former
 1723. Instances.

‘ I shall now consider the Improbability, as well as Inconsistency of the Charge brought against me without positive Proof. You will allow me to answer the Indictment in the same Manner as it is laid.

‘ Is it probable that if I were engaged in any such Design, no Footsteps should be seen of any Correspondence I had with the late Duke of *Ormond*, to whom, of all Persons abroad, I was best known, and to whom I had the greatest Regard, and still have all the Regard that is consistent with my Duty to my King and Country?

‘ Is it probable that I would chuse rather to engage in such Design with Mr. *Dillon*, a military Man I never saw, and with the Earl of *Mar*, whom I never convers’d with, except when he was Secretary of State?

‘ Did I not know, what all the World thinks, that he had left the *Pretender* several Years, and had a Pension abroad? Is this a Season for me to enter into Conferences with him about restoring the *Pretender*; and to do this, not by Messengers, but by Letters, not sent by Messengers but by the common Post? That by thus writing to him by the Post, I should advise him after the same Manner to write to me; and by these Means furnish Opportunities towards detecting the Persons and bringing myself into Danger? How doth that consist with the Caution and Secrecy which are said to belong to me? Must not I have been rash to have laid myself open in such a Manner? This is an inconsistent Scheme, the other a bold Assertion. Is it probable when attending the sick Bed of my Wife, and expecting her Death, not daily but hourly, that I should enter into Negotiations of this kind?

‘ There was no need of dispatching any of those three Letters, merely to excuse my not writing: The Circumstances of my Family had been a sufficient Apology, and more effectual.

‘ Is it probable, that when I was carrying on publick Buildings of various kinds at *Westminster*, and *Bromley*, consulting all the Books from the *Westminster* Foundation, engaging in a Correspondence with learned Men, about settling an important Point of Divinity; at that very Time, I should be carrying on a Conspiracy? Those that entertain such Thoughts without Reason, may also condemn me without Argument.

‘ Is it probable, that I should meet, and consult, in order to carry on and forward this Correspondence with no Body, and no where?

‘ That

‘ That I, who always liv’d at Home, and except at Dinner Time never stir’d out of my Chamber ; received all Persons that visit’d me, and was deny’d to none, should have an Opportunity to be so engaged ? And if I had, that none of my Domesticks and Friends should ever observe any Appearance of any such Thing ? No Evidence among my Papers, tho’ they were all seiz’d at both my Houses, and confining all my Servants, but one, for about ten or eleven Weeks, searching him twice in the Tower, and searching myself, nothing of Consequence appears, nor is there any one living Witness that charges me with any thing that is really true.

‘ Is it probable, that I should form and direct a Conspiracy, and carry it on with any Success, that am not us’d to Arms, which I am no more acquainted with, than with the Persons employ’d on those Occasions ? My Way of Life hath not led me to converse with such Men and such Matters, except on the Occasion of meeting in Parliament ; but in a Council of War, I never was. Have I yet in any Instance of my Life meddled remarkably out of my own Sphere, in Affairs foreign to my Business or Character ? I might have been thought to have been too active in my proper Station and Business ; but I was never charg’d with War, nor any ways inform’d in the Art of it.

‘ Is it probable, that Persons concern’d in such Military Scheme, (if any such be form’d by Men of the Sword that apply to such Business) should be punish’d without any Proof ?

‘ And must I, whose Way of Life is set at the greatest Distance from such Persons, and from the very Suspicion of being concerned with them, suffer all the Pains and Penalties short of Death, which the Parliament can inflict for a suppos’d I know not what, and what I don’t to this Day apprehend.

‘ Here is a Plot of a Year or two standing to subvert the Government with an arm’d Force ; an Invasion from Abroad ; an Insurrection at Home ; just when ripe for Execution it is discover’d ; and twelve Months after the Contrivance of this Scheme, no Consultation appears, no Men corresponding together, no Provision of Money, Arms or Officers — not a Man in Arms — And yet the poor Bishop hath done all this.

‘ *Lacy* and *Plunket* carry on a treasonable Correspondence ; they go to *Rome* and receive Directions from the *Pretender* himself, to promote his Cause — It doth no where appear that the Bishop has the least Share in, or is any way privy to, their Practices — And yet the Bishop has done all ;
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Anno 9. Geo. I. He is *principally concern'd in forming, directing, and carrying on this detestable Conspiracy.*

1723.

‘ What could tempt me to step thus out of my Way? Was it Ambition and a Desire of climbing into a higher Station in the Church? There is not a Man in my Office farther remov'd from this than I am; I have a hundred Times said, and sincerely resolv'd, I would have been nothing more than I was, at a Time when I little thought of being any Thing before, and I can give an Instance of this Kind if I thought proper.

‘ Was Money my Aim? I always despis'd it, too much perhaps, considering what Occasion I am now like to have for it; for out of a poor Bishoprick of 500 *l. per Annum*, I have laid out no less than 2000 *l.* towards the Repairs of the Church and Episcopal Palace; nor did I take one Shilling for Dilapidations, and the rest of my little Income has been spent as is necessary, as I am a Bishop. Nor do I repent of these Expences now, (tho' since my long Confinement I have not received the least Part of the Income of my Deanry) not doubting in the least, but that God who hath liberally provided for me hitherto, will still do it, and on his good Providence I securely rely.

‘ Was I influenced by any Dislike of the establish'd Religion, and secretly inclined towards a Church of greater Pomp and Power? I have, my Lords, ever since I knew what Popery was, oppos'd it, and the better I knew it, the more I-dislik'd it.

‘ I begun my Study in Divinity, when the Popish Controversy grew hot about that immortal Book of *Tillotson's*, when he undertook the Defence of the Protestant Cause in general, and as such I esteemed him above all.

‘ You will pardon me, my Lords, if I mention one Thing:

‘ Thirty Years ago I writ in Defence of *Martin Luther*, and have preach'd, and writ to that Purpose from my Infancy, and whatever happens to me, I will suffer any Thing, and will, by God's Grace, burn at the Stake, rather than depart from any material Point of the Protestant Religion, as profess'd in the Church of *England*.

‘ Once more: Can I be suppos'd to favour Arbitrary Power? The whole Tenor of my Life hath been otherwise: I was always a Friend of the Liberty of the Subject, and, to the best of my Power, constantly maintain'd it: I may have been thought mistaken in the Measures I took to support it.

‘ It matters not by what Party I was called, so my Actions are uniform.

‘ To return to the Point: The Charge brought against me, in the Manner it is brought, is improbable; if I could

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be guilty of it, I must have acted under a Spirit of Infatuation; yet I have never been thought an Idiot or a Mad-man.

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‘ My Lords, as to the Pains and Penalties contained in this Bill, they are great and grievous, beyond Example in their Nature and Direction.

‘ I am here, my Lords, and have been here expecting an immediate Tryal. I have, my Lords, declin’d no Impeachment. The Correspondence with the Earl of *Clarendon* was made Treason; but with me ’tis only Felony; yet he was allowed the Conversation of his Children, by the express Word of the Act: Mine are not so much as to write, so much as to be sent to me.

‘ What is most particular in my Case I will repeat distinctly, that my Reverend Brethren may hear it. I am render’d incapable of using or exercising any Office, Function, Authority, or Power Ecclesiastical, not only in his Majesty’s Dominions; but any where else: Very hard! that such Spiritual Power as is not deriv’d from Men, but God himself, should be taken from me.

‘ And I am not only depriv’d of all Offices, Dignities, and Benefices Ecclesiastical, and for ever banish’d the Realm, but likewise precluded from the Benefit of Royal Clemency, and made utterly incapable of any Pardon by his Majesty, his Heirs and Successors.

My Lords,

‘ I insist on my Innocence, that I am not guilty; and if I am not proved so, your Lordships will thus judge; if otherwise, I persuade myself I shall find some Degree of Mercy.

‘ You will not strip a Man of his Substance, and then send him where he cannot subsist; you will not send him among Strangers, and then hinder others from performing Humanity to him; you will not give him less Time to order his Affairs and depart the Kingdom, than the Bill hath taken in passing through both Houses.

‘ The Great Man I last mentioned, carry’d a great Fortune with him into foreign Parts, and had the Languages; was well acquainted Abroad: The Reverse of all this is my Case; I indeed am like him in nothing but his Innocence, and his Punishment. It is in no Man’s Power to make us differ in the one, but it is in your Lordships Power to make us differ widely in the other, and I hope your Lordships will do it.

‘ But to sum up the Argument: I hath been frequently observed, that the higher the Crimes are, the fuller the Proofs ought to be. Here is a Charge of High Treason brought against me, with no Evidence at all.

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Anno 9. Geo. I.
1723.

My Lords,

‘ Pardon me, what is not Evidence at Law, can never be made so by any Power on Earth ; for the Law that required the Evidence, is as much the Law of the Land, as that which declares the Crime.

‘ It is equally unjust to declare any Proof legal, because of my Prosecution : As extraordinary would it be, to declare Acts themselves, *ex post facto*.

‘ Never was there a Charge of so high a Nature, and so weakly prov’d.

‘ A Person dead, so that there is not an Opportunity to falsify him by contradicting him ; a Charge not supported by one Evidence, nor by one Proof of any Thing that hath been writ or received by me, nor even by any one criminal Word proved to have been spoken by me, but by intercepted Letters and Correspondence, in which appears not the least Certainty.

‘ Some of those Letters, shewn to Persons, with a Design to fasten something on them ; others writ in Cyphers, and fictitious Names, throwing out dark and abstruse Hints of what Persons went by those Names, sometimes true and sometimes doubtful, and often false, who continue all the while Strangers to the whole Transaction, and never make the Discovery, till they feel and find it advancing itself towards them : My Lords, this is my Case in short.

‘ I have a hard Task to prove my Innocence : Shall I stand convicted before your Lordships on such an Evidence as this ? The Hearsay of an Hearsay ; a Party dead, and that denyed what he said ; by strange and obscure Passages, and fictitious Names in Letters ; by the Conjecture of Decyphers, without any Opportunity given me of examining and looking into the Decyphering ; by the Depositions of Post-Office Clerks about the Similitude of Hands ; their Depositions made at distant Times, and without comparing any one of the Originals, and by a strange Interpretation of them ; for nothing more, I am persuaded, can be made of the Arguments, than what is called the intercepted Correspondence.

‘ Shall I, my Lords, be deprived of all that’s dear to me, and, in the Circumstances I am in, scarce able to bear up, and by such an Evidence as would not be admitted in any other Cause or any other Court ; and would hardly affect a *Jew* in the Inquisition of *Spain* ?

‘ And shall it be receiv’d against a Bishop of this Church, and a Member of this House ? God forbid. Give me Leave to make Mention of a Text in Holy Writ ; *Against an Elder receive not an Accusation, but before two or three Witnesses*. It is not said, Condemn him not upon an Accusation,

Wc.

ſc. but receive it not ; I am ſomething more than an Elder, Anno 9. Geo. I.
and ſhall an Accuſation againſt me be countenanced, with- 1723.
out any one Inſtance of a Proof to ſupport it ?

‘ This is not directly Matter of Eccleſiaſtical Conſtitution : There you read, one Witneſs ſhould not riſe up againſt an Elder ; but here, at the Mouth of two Witneſſes, or three Witneſſes, ſhall the Matter be eſtabliſhed. And as this Rule was tranſlated in the State of the Church, People always thought fit to follow it.

‘ Shall I be the firſt Biſhop in this Church condemn’d upon Conjecture, on fictitious Names and obſcure Paſſages in Letters, inſtead of two or three Witneſſes ?

‘ Will not others endeavour to make the ſame Precedent, and deſire the ſame Influence of it to ſucceeding Ages, and even concur in ſuch an Act, in order to render me incapable of uſing or exerciſing any Power or Authority, ſc. Is this good Divinity, or good Policy ?

‘ As to the Juſtice of the Legiſlature, in ſome Reſpects it hath a greater Power than the Sovereign Legiſlature of the Univerſe ; for he can do nothing unjuſt. But tho’ there are no Limits to be ſet to a Parliament, yet they are generally thought to reſtrain themſelves, to guide their Proceedings in criminal Caſes, according to the known Law.

‘ The Parliament may order a Criminal to be tortur’d, who can ſay they cannot ? But they never did, nor never will, I hope, becauſe Torture, tho’ us’d in other Countries, is not known here.

‘ Is it not torturing to inflict Pains and Penalties on Perſons not ſuſpected of Guilt, nor plainly proved guilty ? It is not much unlike it. The Parliament may, if they pleaſe, as well upon a Bill of perpetual Imprifonments, as upon a Bill of perpetual Exile, reſerve to the Crown a Power to determine the one as well as the other. • They have ſo enacted it in the one Caſe, but they have not enacted it in the other. The Law knows nothing of ſuch abſolute perpetual Imprifonments.

‘ The Law may, in like Manner, condemn a Man on a Charge of accumulated and conſtructive Treafon. They did ſo in the Caſe of the great Lord *Strafford*, and that by accumulated and conſtructive Proof of ſuch Treafon, that is, by ſuch Proofs ſo well interpreted, as plainly to communicate Light and Strength to each other, and ſo to have all Force, without the Formality of Evidence. Was ſuch Proof ever admitted by any one to deprive his Fellow-Subject of his Fortune, of his Eſtate, his Friends, and Country, and ſend him in his old Age, without Language or Hope, without Employment to get the Neceſſaries of Life, to ſtarve ? I ſay again, God forbid.

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• My Ruin is not of that Moment to any Number of Men to make it worth their while to violate, or even to seem to violate the Constitution in any Degree, which they ought to preserve against any Attempts whatsoever.

• But where once such extraordinary Steps as these are taken, and we depart from the fixed Rules and Forms of Justice, and try untrodden Paths, no Man knows where this shall stop.

• Tho' I am worthy of no Regard, tho' whatsoever is done to me may, for that Reason, be looked upon to be just, yet your Lordships will have some Regard to your own lasting Interest, and that of Posterity.

• This is a Proceeding with which the Constitution is not acquainted, which, under the Pretence of supporting it, will at last effectually destroy it.

• For God's Sake, lay aside these extraordinary Proceedings, set not up these new and dangerous Precedents ; I, for my Part, will voluntarily and cheerfully go into perpetual Banishment, and please myself that I am, in some Measure, the Occasion of putting a Stop to such Precedents, and doing some Good to my Country, and will live, wherever I am, praying for its Prosperity ; and do in the Words of Father Paul to the State of Venice, say *Esse perpetuo* : It is not my departing from it I am concern'd for ; let me depart, and let my Country be fix'd upon the immovable Foundation of Law and Justice, and stand for ever.

• I have, my Lords, taken up much of your Lordships Time, yet I must beg your Attention a little longer.

• Some Part of my Charge hath been disproved by direct and full Evidence, particularly that of writing the Letters of the 20th of April, or that I knew who wrote them, which I utterly deny that I ever did or as yet do know. Other Parts of the Charge there are, which are not capable of such Disproof, nor indeed require it ; there I rest. But, my Lords, there is a Way allowed of vindicating Myself ; it is generally Negative ; that is by protesting and declaring my Innocence to your Lordships, in the most deliberate, serious and solemn Manner ; and appealing to God, the Searcher of Hearts, as to the Truth of what I say, as I do it in what follows : I am charg'd in the Report with directing a Correspondence to Mr Kelly ; but I solemnly deny that I ever, directly or indirectly, saw a single Line of any of their Letters 'till I met with them in Print. Nor was the Contents of any of them communicated to me. I do in the next Place deny, that I was ever privy to any Memorial to be drawn up to be delivered to the Regent. Nor was I ever acquainted with any Attempt to be made on the King's going to *Han-*

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ver, or at the Time of the Election. Nor did I hear the least Rumour of the Plot to take Place after the breaking up of the Camp, 'till some Time after Mr *Laver's* Commitment. I do with the same Solemnity declare, that I never collected, remitted, receiv'd, or ask'd any Money of any Man, to facilitate these Designs; nor was I ever acquainted with, or had any Remittances whatsoever from, any of those Persons. I never drew any Declaration, Minutes, or Paper, in the Name of the *Pretender*, as is expressly charg'd upon me. And that I never knew of any Commission issu'd, Preparation of Arms, Officers, or Soldiers, or the Methods taken to procure any, in order to raise an Insurrection in these Kingdoms. All this I declare to be true, and will so declare to the last Gasp of my Breath.

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‘ And I am sure, the farther your Lordships examine into this Affair, the more you will be convinc'd of my Innocency. These contain all the Capital Articles of which I am accused, in the *Report* of the House of Commons.

‘ Had the Charge been as fully prov'd as ascertain'd, it had been vain to make Protestations of my Innocence, tho' never so solemn.

‘ But as the Charge is only supported by the slightest Probabilities, and which cannot be disprov'd in any Instance, without proving a Negative; allow the solemn Asseverations of a Man in Behalf of his own Innocence to have their due Weight, and I ask no more, than that they may have as much Influence with your Lordships as they have Truth.

‘ If on any Account there shall still be thought by your Lordships to be any seeming Strength in the Proofs against me: If by your Lordships Judgments, springing from unknown Motives, I shall be thought to be guilty: If for any Reasons, or Necessity of State, of the Wisdom and Justice of which I am no competent Judge; your Lordships shall proceed to pass this Bill against me: God's Will be done: *Naked came I out of my Mother's Womb, and naked shall I return; and whether he gives or takes away, blessed be the Name of the Lord.*

The Bishop having done speaking, and being, with his *Ld Lechmere* Council, withdrawn, the Lord *Lechmere* took Notice, That the most material Part of the Charge against that Prelate, was his dictating the treasonable Letter to Mr. *Kelly*; and since the Letter was the only legal Witness they could have in this doubtful Case, he therefore moved, ‘ That *George Kelly*, alias *Johnson*, now a Prisoner in the *Tower of London*, be brought to the Bar of this House on Monday Morning next, to be examined upon Oath, on the Bill, intituled, *An Act to inflict Pains and Penalties on Francis Lord Bishop*

Ld Lechmere moves, That *Kelly* be examined at the Bar, relating to the Bill against the Bishop of *Rocheester*.

Anno 9. Geo. I. *of Rochester.* He was seconded by the Earl of *Carlisle*; but opposed by several Lords; and the Question being put upon this Motion, it was resolved in the Negative by 80
 1723.
 E. of Carlisle. Voices against 40.

Protest on the
 said Motion's
 passing in the Ne-
 gative.

Dissentient

I. Because we think it unquestionable that the said *Kelly* is a competent legal Witness to the Matters charged by the Bill against the Bishop, and could not be legally refused to be sworn as such, if the Bishop were on his Tryal for the same in the ordinary Course of Justice; and that, whether the said *Kelly* were produced either for or against the Bishop; and, we conceive, if the Counsel for the Bill had thought fit to have produced him in support of the Bill, that even no legal Objection could have been made by the Bishop's Counsel against his being so produced and sworn, the Bill passed this House against the said *Kelly* not having received the Royal Assent; and there not being in the said Bill, in our Opinions, any thing that can destroy even his legal Testimony, when the same is passed into a Law.

II. Because the three Letters, dated the 20th of *April* 1722, supposed to contain treasonable Correspondences with the *Pretender* and some of his Agents, have been made the principal Charge against the Bishop, and have been endeavoured to be proved to have been dictated to the said *Kelly* by the Bishop, at or about the Time of their Date; but this not being as yet done, as we think, by direct or positive Proof by any living Witness of the Fact, but by Circumstances only, we think it most proper, and most safe and just, to endeavour to discover the Truth of that material Fact, by the best Evidence the Nature of the Thing can admit of; and that this House should not be left under the Difficulties of judging on this extraordinary Occasion from doubtful Circumstances, if the Fact may be cleared by certain positive Proof, and the Examination of a competent and a living Witness upon Oath at the Bar of this House.

III. Because several living Witnesses having been examined on Oath at the Bar of the House, on behalf of the Bishop, in order to prove by their positive Testimony and other Circumstances, that the Bishop did not dictate or direct, or was any way privy to the writing of the said Letters, or any of them, which has, in our Judgments, render'd it of yet greater Importance, that the supposed Writer of those Letters should be brought under the most strict and solemn Examination, before the Bill has passed this House.

IV. Because the said *Kelly*, though examined before Committees of both Houses of Parliament, and elsewhere, hath
 not,

not, to our Knowledge, been yet examined upon Oath to the Matters contained in this Bill; and it having appeared to us, in other Instances on this Occasion, particularly of *Mrs. Barnes*, examined for the Bill, and of *Bingley* against it, who have materially varied their Examinations at the Bar of this House from their former Examinations, at the same Time declaring their former Examinations were not taken and sworn to by them; we think it may be both dangerous and derogatory to the Honour and Justice of the House, not to examine upon Oath, a Person capable of discovering the Matters of Fact, on which the Justice of the Bill against the Bishop must depend; and especially after the said *Kelly* hath declared in the most solemn Manner, next to that of his being upon Oath, that the Bishop did not dictate, or was privy to the Writing the said Letters, or any of them; and the Bishop himself, in his Defence, having also, in the most solemn Manner of Affeuration, declared his Innocence in this Particular, and expressly referring to the former Affeurations of the said *Kelly*, as we conceive, as a Testimony in Confirmation of his own Affeurations.

Anno 9. Geo. I.
1713.

V. Because, we conceive, that the said *Kelly* was not only a legal Witness for or against the Bishop, in the strictest Construction of Courts of Judicature; but the Examination of him upon Oath, on this Bill, is in every respect whatsoever, in our Judgments, less liable to Objection than in any or most other Evidences, which on this Occasion have been allowed; because the Bill passed by this House against the said *Kelly*, if it obtains the Royal Assent, as is most probable, doth (in Judgment of Law, as hath been declared by the Judges) acquit him of any farther Prosecution for the said Treasons therein charged upon him; and there is no Judgment or Punishment inflicted upon him in the said Bill, which can, when passed, destroy his Capacity of giving Evidence on any Occasion; and the same being passed by this House, and not passed the Royal Assent, leaves the said *Kelly*, in our Opinions, under less Influence either of Hopes or Fears, than such Witnesses which have been examin'd on this Occasion under Commitments and Charge of High-Treason; and, as we conceive, less liable to that Objection than the Declaration of *Philip Neynos*, which has been read against the Bishop, though never signed or sworn to by him, and the said *Neynos*, some Months since, drowned in endeavouring his Escape; and which Declaration appears to us to have been made by him under the strongest Influences of Guilt and Terror.

VI. We think the Crimes charged in the Bill against the said *Kelly*, are in their Nature distinct and independent on those charged upon the Bishop, *Kelly's* Guilt in writing the said

Anno 9. Geo. I.
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said treasonable Letters proved upon him being the same, though the Bishop be altogether innocent in relation thereto; for which Reasons, as we conceive, this House did refuse to permit *Kelly* on his Bill to give Evidence, that the Bishop did not dictate the said Letters; for which Reason we are of Opinion, that the Evidence which *Kelly* might have given touching the Bishop's dictating the said Letters, or not, would have produced no Consequence at all, with regard to the Bill passed against himself; though it must necessarily have contributed to the Proof of the Guilt or Innocence of the Bishop.

VII. This House having, with great Honour and Justice, declared to several Persons produced as Witnesses on this Occasion, that it was not required from them to depose any Thing which did or might tend to their own Accusation, the Testimony of the said *Kelly*, if he had been examined on Oath, we doubt not, would have been taken under the same just Indulgence; and if he had submitted to have been examined on Oath to the Matters of this Bill, such his Examination being in that respect voluntary, could not; in our Opinions, have been construed as forced from him by the Authority of this House; and such Testimony as he might have given would have remained under the Consideration and Judgment of this House, as to its Credit and Influence, on all Circumstances, in the same Manner as the other Evidence for and against the Bill still does.

Cowper, Lechmere, Pomfret, Bathurst, Bingley, Fr. Cestriens', Compton, Willoughby de Broke, Weston, Bruce, Aylesford, Hereford, Gower, Brooke, Middleton, Denbigh, Scarfsdale, Dartmouth, Salisbury, Foley, Masbam, Cardigan, Exeter, Wharton, Litchfield, Uxbridge, Hay, Strassford, Northampton, Anglesea, Berkeley de Stratton, Foxlett, Abburnham, Guilford, Craven.

Farther Proceedings on the said Bill.

On the 13th of May the Bishop of *Rothester* being, for the last Time brought to the Bar, Mr *Reeves*, one of the Counsel for the Bill, made a Reply to the Bishop's Defence, and, in particular, justified what he had said before about the Letter the Bishop wrote in the Tower, and was found about one of his Servants. And as the Bishop had closed his Speech with a Passage out of the Holy Scripture, so Mr *Reeves* concluded with these Words out of *Ecclesiastes*, Chap. 10. v. 20. *Curse not the King, no not in thy Thought, and curse not the Rich in thy Bed Chamber: For a Bird of the Air shall carry the Voice, and that which has Wings shall tell the Matter.*

After

After this the Counsel for the Bill produced and examined Anno 9. Geo. I.
several Witnesses to contradict what had been deposed relating to *Neynoe*. 1723.

The Bishop of *Rocheſter*, and his Counsel having much insisted, and endeavoured to prove, that he did not dictate the treasonable Letters in Question, because, at the Time they were supposed to be written, and before and after, he was disabled in his Chamber, the Bishop of *St Asaph* * ac- Bp of St Asaph. quainted the House, That at that very Juncture of Time, he had received a Letter from the Bishop of *Rocheſter*, of his own Hand-writing. This voluntary Evidence, from a Person of so venerable a Character, rais'd the Attention of the whole House. But the Bishop himself, rather fired with Indignation, than daunted by so unexpected a Charge, absolutely deny'd the Fact, boldly challenged his Accuſer to prove it, and offered to put the whole Tryal upon that single Point.

The Bishop of *St Asaph* still affirmed that he received a Letter, which he took to be written by the Bishop of *Rocheſter* himself, from the Hands of one of his Servants, then at the Bar ; but being somewhat perplexed as to the Hour, and the Day, and at the same Time contradicted by *Grant*, the Bishop of *Rocheſter*'s Servant, the Prisoner, in an exulting Manner, press'd his Accuſer to produce the Letter in Question : which the other not being able to do, the Bishop of *Rocheſter* severely animadverted upon him for being so forward to give such rash Evidence, and endeavouring to fix Perjury upon a Man of his Holy Function. This Affair being over, the Lords, in a grand Committee, went thro' the Bill, *For inflicting Pains and Penalties on Francis Lord Bishop of Rocheſter*, and, about Ten at Night, adjourned to the 15th of *May*.

Accordingly that Day the Bill was read the third Time, Debate on the third Reading of the Bill against the Bishop of a very warm Debate.

The Earl *Poulet*, who spoke first, shewed the Danger of Rocheſter. such an extraordinary Proceeding, and urged, ' That the Earl Poulet. swerving from the fixed Rules of Evidence, and consequently from Justice, must inevitably be attended with the most fatal Consequences to our excellent Constitution.' The Bishop of *Salisbury* † spoke next as follows :

Bp of Salisbury.

My Lords,

' I believe it will be expected that I should say something in a Case so extraordinary as this is ; and wherein a Brother Bishop is so nearly concerned. I beg Leave to begin with taking Notice of some Things that were peculiarly

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addressed

* Dr John Wynne ; translated to Bath and Wells, on the Death of Bp Hooper.
† Dr Willis.

Anno 9. Geo. I. addressed to this Bench, both by the reverend Prelate, and his Counsel from the Bar.

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‘ The first is, that we would consider how agreeable it may be to the Canons and Discipline of the Church, in this extraordinary Manner to deprive a Bishop of all his Preferments; and to prohibit him the Use and Exercise of his Function for his Life. As to this Objection, whatever Influence it may have abroad among ignorant People, yet, as to your Lordships, who know our Constitution so well, I cannot imagine that it can have any Weight at all. And indeed when I consider all the Acts of Parliament relating to the Supremacy, that have been made for near two hundred Years; when I consider the Articles of our Church, our Canons, and the Subscriptions that the Bishop himself must have made, and must have required from others, in the Exercise of his Function, it is Matter of Wonder to me, that such an Objection should be made, either by a Bishop of the Church of *England*, or by a Lawyer of the Kingdom of *England*. I do not indeed recollect above one Instance of a particular Act of Parliament made to deprive a Bishop; which is that of *Fisher*, Bishop of *Rochester*, who was so deprived, in the Time of *Henry VIII.* But, as to general Acts of Parliament, whereby both Bishops and Presbyters have been depriv’d of their Preferments, we have a good Number: Thus, in the Beginning of *Queen Elizabeth’s* Reign, almost all the Bishops of *England* were so depriv’d: And at the Revolution, many were so; and all might have been so, if they had not comply’d with the Terms of the Act of Parliament: And at the Restoration, many hundreds of Presbyters were depriv’d in the same Manner. And it cannot well be doubted, but that the same Authority which can make Laws by which the whole Bench may be depriv’d, may exert it self in a particular Case, if they have just Reasons for it.

‘ As to the Tryal of Bishops, for any Crimes they shall be guilty of, we are to consider the different Nature of the Crimes of which they are accused; and the Tryal by Law must be accordingly. If the Crime be of an Ecclesiastical Nature, such as Ecclesiastical Courts can take Cognizance of, as Simony, Heresy, and the like; the Tryal regularly must be by the Archbishop of the Province, taking to his Assistance some of his Suffragan Bishops. But even in this Case, if either the Archbishop shall, upon Complaint, neglect to try him; or, if upon Tryal he shall acquit and absolve him, the Accuser may appeal to the King in Chancery: Which Court may appoint a Commission of Delegates, who may, by the Authority of the Crown, judge him, deprive him of his Bishoprick, prohibit him the Use of his Function for his Life, tho’ he were before acquitted by the Archbishop. But if

if the Crime be of a Civil Nature, such as Treason, (which is the Case now before us) the Ecclesiastical Authority has nothing at all to do with it; and should any Ecclesiastical Judge attempt to meddle with it, he would be judg'd to attempt against the King's Crown and Dignity, and quickly have his Proceedings stopp'd by a Prohibition out of the Temporal Courts: And I would observe further, that were this Bishop to be try'd in the common Course of Law, for the Crimes whereof he is accused in this Bill, it must be, either by your Lordships, as a Member of this House; or by the Judges and a Jury in *Westminster-Hall*. I would not at present say which, because it would lead me out of the Way: But in this Case, if either your Lordships, or the Judges below, should pass Sentence upon him for the Treason of which he is here accused, that Sentence would, *ipso facto*, deprive him of his Bishoprick. I shall add no more but this one Observation, That the Way that is now taken to deprive him, is the only Way that I know of, wherein the Bishops can have any Part in the Sentence of Deprivation. The next Thing that was suggested from the Bar, particularly to this Bench, was, That we should consider well what we are doing, and have a Care that we do not, by concurring in this Bill, make our Titles to our Bishopricks precarious. As to this Admonition, the Answer is very easy; That it becomes us, as we have the Honour to have Seats in Parliament, to take Care to do Justice, as, on the one side, to the Prisoner, so, on the other side, to our King and Country: And to trust in God, that in so doing we shall neither hurt our selves, nor our Successors. But, so far as just Judges may look to Events, the Argument seems to me to lie the other Way: For, if for want of doing Justice against Traytors to King *George*, the Pretender should happen to prevail, (which God avert) the Title of Protestant Bishops is like to be very precarious indeed. As to the Power of Parliament to pass Bills of this kind, the Parliament always had it, has frequently exercis'd it, and always must have it, it being essential to the very Being of the Supreme Power. The Lives and Liberties of every Man in *England* are subject to it; and though the Exercise of this Power may be dangerous to Persons, who will venture upon treasonable Practices, trusting to their Cunning and Artifice to skreen them from the Law, yet I have that Confidence in the Integrity and Justice of the Crown, and two Houses of Parliament, that so long as this Example is followed, of giving a full and fair Hearing to the Persons accused, innocent Men cannot easily suffer; or in all Events, that if Corruption or Faction should ever so far prevail, that there should be Danger to innocent Persons, it will be much easier to corrupt Witnesses or Juries, or, to find other Methods

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thods to destroy them, than it will be to prevail upon a Parliament to do it: As I am persuaded that, in this particular Case, had there been any Corruption, some other Method would have been found out, more effectually to come at the Person concern'd, than this is like to do.

The last Particular that the Bishop peculiarly address'd to the Bench, was, That we would consider the Words of St. Paul to Timothy; *against an Elder receive not an Accusation, but before two or three Witnesses.* The Sense of which Words his Lordship understood to be, That an Accusation should not be so much as *receiv'd* against an Elder or Presbyter, and much less against a Bishop, but upon the Oaths of two or three Witnesses. In answer to this, I beg Leave to observe, that our Translation renders the Word, not, *upon the Oaths*; but, *before* two or three Witnesses: which seems to import a very different Sense from that his Lordship puts upon them. But, not to enter into any critical Examination of the Truth of our Translation, or what the real Sense of the Words is, I only make these two short Observations: First, That the Sense the Bishop puts upon them, that an Accusation against a Presbyter or Bishop, must not be so much as *receiv'd* into Court, but upon the Oaths of two or more Witnesses, is not practised in the Church of *England*; and, I believe, never was practised in any Christian Church whatever. The second Observation is, That whatever be the Sense of these Words, it regards only the Conduct of a Bishop towards his Presbyters; but certainly was never intended to give a Law to the Supreme Power of a Kingdom, in its Proceedings in Cases of High Treason, against any Subject whatsoever. But the Bishop urges further, that the *Jewish* Law did require at least two or more Witnesses in all Judicial Proceedings; and from thence infers, that it ought to be so amongst us. To this it may be reply'd, that is a Part of the Judicial Law of the *Jews*, which was not given to us, and therefore doth not oblige us any more than the rest of that Law doth, except where the Reason of the Thing lays an Obligation upon us. But indeed, I am of Opinion, that that Law doth oblige us, so far as it was intended to oblige them, and so far as it can be adapted to the infinite Variety of Cases, that must happen in Judicial Matters. That Law is very short, and therefore must leave many Questions that may be made about it undetermined: I shall take Notice of these two only; The first is, Whether the Meaning of it be, that all Controversies and Accusations whatever, must be determined by Witnesses and no other Way? Or, whether upon Supposition that the Matter be to be determined solely by Witnesses, and no Light can be brought to it any other Way; that then the Witnesses must be at least Two; the second is, whether those Witnesses must swear

swear directly to the Fact : For Instance, that they saw such a Man murder another, or the like ; or whether it may not be sufficient that they swear to such Circumstances, as infer a strong and violent Presumption, that such a Fact was committed by such a Person ? These Things are left undetermined in that short Law of the *Jews* ; but are sufficiently determined by the Nature of the Thing ; and by the Laws of all Nations, and particularly of our own. It is true indeed, that in Cases of High-Treason, we have from Political Considerations determined, that there must be two positive Witnesses, to some one or more Overt Acts of the same Treason ; but, as to all other Crimes, that equally affect the Lives and Estates of all the Subjects of *England*, this is not the Case ; and Men may by Law lose their Lives, when there is not so much as one positive Witness to the Fact. I beg Leave to explain this in the Words of my Lord Chief Justice Coke, (*1 Instit. fol. 6.*) *When a Trial is by Witnesses regularly, the Affirmative ought to be proved by two or three Witnesses ; — but when the Trial is by Verdict of twelve Men, there the Judgment is not given upon Witnesses, or other kind of Evidences, but upon the Verdict ; and upon such Evidence as is given to the Jury, they give their Verdict ; — and many times Juries, together with other Matter, are much induced by Presumptions.* And indeed, if no Man could be convicted of Murder or Robbery, or other Crimes of that Nature, but by two positive Witnesses that saw the Fact done, nothing would be easier or safer, than the Commission of those Crimes ; and no Man could have any Security, either for his Person or his Estate : And therefore, if in Cases of High-Treason our Law requires positive Witnesses, it is not from any moral Necessity, or Point of Conscience ; but from political Reasons, which must, and always will be, subject to the Judgment of Parliament.

‘ Having now done with what was from the Bar peculiarly applied to this Bench, I now beg your Lordships Leave to proceed more directly to the Bill itself.

‘ And here two Things are necessary to be considered, in order to convince your Lordships, that it is a Bill fit to be passed. The first is, the *Lawfulness* of it ; the second is, the *Prudence* or *Expediency* of it. As to the Lawfulness of it, it will be necessary also to consider, first, Whether your Manner of Proceeding in this Bill be lawful ? Secondly, Whether the Bishop be really guilty of the Crimes charg’d upon him.

‘ As to the Manner of Proceeding, many things have been objected ; That it is by way of Bill, and not a Tryal in the Course of Law ; That Evidence has been admitted, that would not have been admitted in any of our Courts ; That these Things are contrary to the Liberty of the Subject ; That every Subject has a Right to the Laws of his Country ; and

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Anno 9. Geo. I. and that he has an Injury done him, if he be denied the Benefit of them : This I take to be the Sum of what has been objected against the Justice of your Proceedings in this Bill.

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In Answer to these Objections, I beg Leave to consider, first, wherein the Liberty of *England* consists ; which is a Point commonly pretty much mistaken. Many People are apt to imagine, that the Difference betwixt us and some of our neighbouring Countries, is, that they are under Absolute Power, and we are not ; whereas in Truth all Countries, that are Supreme within themselves, have equally an Absolute Power ; and in the Nature of the Thing it cannot possibly be otherwise : No Government can subsist, if there be not a Power in it, to change, to abrogate, to suspend, or dispence with its Laws, as Necessity or Conveniency shall require, which is what we call Absolute Power ; and therefore, the Difference betwixt one Government and another, does not lie in this, that one has such a Power and the other has not ; but lies merely in the Difference of the Hands, in which this Power is placed : Where this is placed in one Hand, in the King, we call that an Absolute Monarchy : Where this is not solely in the King, but only as he acts in Conjunction with the States of the Kingdom, that we call a Limited Monarchy ; and the People that live under such Government, are called a Free People ; because they live under Set Laws, which could not at first be made, nor can afterwards be altered or dispens'd with, but by their own Consent : However, there is still in such Countries, a Power, equally above all their Laws, as there is in the most absolute Monarchy in the World. What I have said upon this first Head, will in a great measure explain a second Question : What that Right is, which the Subjects of this Country have to its Laws ? Which is in short, a Right to claim the Benefit of them against the Crown, or any Court acting under the Crown, till the States of the Kingdom, (which are virtually every Man in the Kingdom) think fit to consent to the Alteration of 'em. The King is indeed Supreme, but his Power is only according to the Laws in being ; by them he is bound to act, and if any of his Officers act contrary to 'em, what they do is null and void ; and they are punishable for it ; and the Subjects have a Claim of Right against them : But if the King and his People think fit to come to a new Agreement to alter any such Law, there's an End of all Claim of Right in the Subject : The Claim is taken away by their own Consent ; for, as I said before, every Man in the Kingdom virtually consents to what is done by an Act of Parliament. And there is an absolute Necessity, that there should be such a Power as this in every Country ; for the State of human Affairs is so changeable, that it does not admit of any Set of unalterable

Laws

Laws. What is good at one time may be destructive at another ; and what is generally good, may, under particular Circumstances, require a Dispensation by a proper Authority. And here, give me Leave to observe to your Lordships, the Difference there is betwixt the eternal Laws of Justice and Righteousness, and all positive Laws whatever. That as to the first, we are made for them, and the nearer we do in all things conform to them, the more noble and lovely, and excellent Creatures we are : But as to positive Laws, they are all made for us ; and the more they conform to us, the more they obviate all our Wants and Difficulties ; the more they answer to all our Necessities, the better they are.

As to what is complained of, that your Lordships have admitted Evidence to be read, that would not have been admitted in the Courts below : I conceive, that acting in the Capacity you now do, you have a full Power to do it, and have not broken any of the general Rules of Justice by it. You have let in all the Light, that you thought might be proper to give you a full Knowledge of the Matter ; and in the Capacity you now act, I cannot but humbly be of Opinion, it was your Duty to do so ; but in forming of your Judgments, I take for granted, that your Lordships will distinguish, and lay no more Weight upon any Thing than it deserves. As to the Rules of receiving Evidence in *Westminster-Hall*, I conceive, that they are no Part of natural Justice, but only artificial Rules fram'd for Conveniency, and bind no Courts, but as they have agreed to them, and so are become the Customs of the Court. That these Rules are no Part of natural Justice appears from hence, that even among ourselves they are different in different Courts : That those used in our Courts, are very different from those used in other Countries : That they differ here, according to the different Causes or Crimes that are to be tried. Nay, they are so far from being fundamental Parts of Justice, that they must require a good deal of Time and Art to form them. And I am persuaded, that was a Person of good natural Sense, who knows nothing of the Law, asked his Opinion, he would be apt to think it to be a Part of natural Justice, that every Person that prosecuted a Cause in any Court, should be at Liberty to produce before that Court whatever he thought material to his Cause : And there is no Doubt but that this was the original Way of proceeding ; but that in Process of Time, when Courts came to have a good deal of Business, and they found by Experience, that this Way of laying every Thing before them, tended to lengthen Causes (which was especially inconvenient where Juries are concerned, who must end a Cause before they part) these Rules were gradually found out, which, tho' they

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Anno 9. Geo.I. they may be generally convenient, yet may sometimes hinder Justice, by not suffering all the Light to come into the Court that may be material in the Cause.

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‘ I now come to consider the second and main Point of Justice to be regarded in this Bill, which is, Whether the Bishop be guilty, or not, of the treasonable Practices charged upon him in it: And in this I shall be the shorter, because your Lordships have heard the Evidence on both Sides, and all that has been said from the Bar by both Sides upon it.

‘ The Cause of *Kelly* is so connected with that of the Bishop, that I must beg Leave to speak a few Words to the one, before I proceed to the other. As to *Kelly*, I would observe, in the first Place, that one strong Presumption of his Guilt is, That when he was first taken up he resisted the Officers; that he seiz’d his Sword and some Papers that had been taken away from him, and was resolute to burn those Papers, tho’ with the apparent Hazard of his own Life; and being guilty of the Murther of one of the Officers that had seized him. In the next Place, it is proved, That after he was taken up, the People at his Lodgings burn’d the rest of his Papers; a plain Evidence, that they who knew his Manner of Life and Conversation, suspected that he was guilty; and this is agreeable to what *Neymour* told the Chancellor of the Exchequer, that there was at that Time a general burning of Papers. Thirdly, Another Presumption of his Guilt is, That when he was taken up the second Time, he offered several Sums of Money to the People of the House where he was in Custody, to suffer him to escape: These Things I mention, not as full Proofs of his Guilt, but as strong Presumptions, that make every Thing else that is sworn against him very credible. The chief Evidences of his Guilt, are a great Number of intercepted Letters, both from him and to him, containing treasonable Matters: Those from him, are, by several Witnesses, proved to be his Hand-writing, particularly by the Officers of the Post-Office, who took them and transcribed them: And as to those to him, several Witnesses have proved, that he gave Orders at several publick Houses to take them in when they came from the Post; that he himself received them from thence, opened and read them. And it is also further proved, that Answers were returned to them in his own Hand-writing. These Things I take to be plain and strong Evidences of his Guilt.

‘ As to the Person concerned in this Bill, tho’ it be a great Trouble to me to think, that any Bishop of this Church should be guilty of so foul a Crime, as that objected to him; yet I cannot but be of Opinion, that if he be really guilty, the Interest of our Church, as well as Justice to our King and

and Country, do require that he should be convicted and Ann^o 9. Geo. I.
punished. And indeed I cannot but be of Opinion, that
whoever believes *Kelly* to be guilty, must believe the Bishop
to be guilty too. I shall not insist upon what is called Hear-
say Evidence, tho' there be a great deal of it against the
Bishop, only must observe, that the Conduct of a Protestant
Bishop must have been very odd and unaccountable, if he be
innocent; that so many *Jacobites* (as have done in this Case)
should declare, that they not only esteemed him to be in the
Plot, but to be the chief Conductor of it. It is however fit to
say something as to the Case of *Neynoe*, because the Bishop and
his Counsel have taken up so much of your Lordships Time,
and produced so many Witnesses to prove him a Knave. I did
indeed myself always think him to be a Knave, and that no-
thing that he said was to be believed merely upon his Authori-
ty; but on the other Side, the Testimony of the greatest Knave
in the World may be taken against himself; and they themselves
have proved that he was a *Jacobite*, and thoroughly in that
Interest, even when he was making some Discoveries against
them; and therefore what he says in that respect bears some
Weight, as being against Persons whom he favoured, and
would hurt as little as possible: Some other Things that he
said are also confirmed by concurrent Circumstances, and o-
ther Discoveries; and these may have their Weight, tho' he
were never so great a Knave. One of the Things that he
said in his Confession, was, That he frequently went with
Kelly to the Bishop of *Rocheſter's*, and left him there (as
Kelly told him) to write his Letters. This is confirmed by
a credible Witness at your Bar, who swears, that *Neynoe*
used to be frequently at his House, and told him, at least
three or four Times, that he waited there for a sensible in-
genious Gentleman, that was gone about Business to the
Bishop of *Rocheſter*: He did not indeed tell him the Name;
but the Thing seems to me to look stronger than if he had,
because it would have looked more like a Piece of Art and
Contrivance to have told the Name of a Man, whom he
knew to be gone to the Bishop about a criminal Correspond-
ence. I only beg Leave to take Notice of one Thing
more relating to *Neynoe*; the Bishop's Witnesses have ful-
ly proved that *Neynoe* told them, that the Chancellor of
the Exchequer had given him several Sums of Money, to
endeavour to get out of *Kelly* the Explication of the Cant
Names that were used in the Correspondence, and that he
had promised him much greater Sums, if he would go to
France and get it out of *Dillon*, and the *Jacobites* there:
The Inference from which I take to be very plain, that the
Court did not then know who the Persons were that were
designed by those Cant Names, and that they did believe

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Anno 9. Geo. I. that *Kelly* did know, and that *Dillon* and the *Jacobites* in *France* knew too; which effectually and fully confutes that Suggestion of the Bishop, of which he did not bring the least Proof, that the Plot was a Contrivance of Persons in Power.

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‘ The next Thing I beg Leave to take Notice of relating to the Bishop, is a Letter, taken among his Papers, from a Lady of great Quality, of which the Bishop, tho’ it was objected to him by the Counsel for the Bill, has taken no Notice, which I conceive he would and ought to have done, had it been possible to give any fair Account of it. The Lady (the Dutchess of *Ormond*) in that Letter tells him, *That she sent something that she had received, she could not tell for whom, but let it be for whom it would, she thought he might be trusted, and that it could not be put into better Hands*: A strong Suspicion this, considering all Circumstances, that here was a Correspondence by Cant Names, which the Lady did not certainly know, but believed the Bishop might; or however, that he was, in all Events, a Person to be trusted.

‘ Another very suspicious Circumstance against the Bishop, is, the Letters from Captain *Halfstead*; and, what has been proved at your Bar, that this same Captain *Halfstead*, a little before he went in his Ship to fetch over the Duke of *Ormond*, waited upon the Bishop, and stayed with him an Hour. This Thing indeed directly proves nothing, but, all Things considered, is very suspicious; and the more so, because the Bishop has given no Account, either of his Acquaintance with him in general, or of the particular Reason of that Visit, at a Time that leaves so much Ground to suspect the worst. The next Particular that deserves your Lordships Consideration, is, the Letter to *Dubois*, found among the Bishop’s Papers when he was taken up, and sealed with the same Seal with that Letter taken upon the Bishop’s Servant, which he confesseth to be his own Hand-writing. It is not indeed proved that the Letter to *Dubois* is the Hand-writing of the Bishop, but any Body that reads it will easily be persuaded, that it is not the natural and ordinary Way of Writing of any Person, but a disguised Hand like Print, except only some few Letters, which escaped the Care of the Writer, and are very like those of the Bishop: But, after a long Examination, it appears plainly, that the Seals are the same, and that the one could not be counterfeited from the other, because the first Letter was originally taken with the Seal broken, and was in the Possession of the House of Commons when the second Letter was taken upon the Bishop’s Servant: It appears plainly by this Letter to *Dubois*, that the Person who wrote it was in a secret and dangerous

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rons Correspondence; that he was an Acquaintance of Mr *Anno 9. Geo. I.*
Johnson or *Kelly*; that he received Letters by his Hand, and
 wrote an Answer in his Hand. How far all these Circum-
 stances, taken together, prove the Bishop to be the Author
 of this Letter, I submit to your Lordships Judgment; for
 my Part, I think they do, especially considering, that the
 Bishop has given no Account of it.

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I now proceed to the principal Charge against the Bi-
 shop, the dictating to Mr *Kelly* the three Letters of the
 20th of *April*, signed, one by the Name of *Jones*, another
 by the Name of *Illington*, the third by the Figures 1378,
 which the Decyphers explain by the Letter *R*: The first
 directed to Mr *Chivers*, or *Dillon*, the second to Mr *Muf-*
grave, or Lord *Mar*, the third to Mr *Jackson*, or the *Pre-*
tender.

It may be proper, before I take Notice of the Proofs,
 that the Bishop did really dictate these Letters, to take No-
 tice of an Objection with respect to the Time; the Letters
 are dated the 20th of *April*, and the Bishop has produced
 five or six of his Servants, who swear, that about that Time
 he was so very ill, that he could not write himself, and that
 he did not see any Person to whom he could dictate these
 Letters. To this it may be replied, that it does not appear
 that all the Servants which the Bishop then had, were pro-
 duced before your Lordships; and you cannot but be sensible,
 that treasonable Practices are commonly carried on in a very
 secret Way; and it appears that the Bishop's Correspond-
 ence with *Kelly* has been so carried on; for tho' there is
 plain Evidence, that they were frequently together, and
 that they were acquainted, is confessed both by the Bishop
 and *Kelly*, yet scarce any one of the Servants produced would
 confess that ever they had seen *Kelly*, or heard of the
 Name of *Johnson*, which was the Name by which he went.
 In the next Place, none of these Witnesses prove that the
 Bishop was so bad that he could see no Company, till about
 the 16th or 17th of *April*; and 'tis very probable, that the
 Letters must have been dictated so long, if not longer, be-
 fore the 20th, on which they are dated, because *Kelly* was
 to transcribe and put them into Cypher, which is a Work of
 Time and Care; and perhaps, after all, they might be de-
 signedly post-dated, that the Bishop finding himself going in-
 to a great Fit of the Gout, might have all that to plead
 which your Lordships have heard, if the Matter should ever
 be call'd in Question. Upon all these Considerations, I can-
 not but think it very clear, that the Bishop might have dic-
 tated these Letters: We are now therefore to examine whe-
 ther he did or no.

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‘ The first Thing that brought Light into this Matter, was the small Accident of a Dog being sent from *France*, which, by the intercepted Letters, appeared to be sent to one that went by the Names of *Jones* and *Illington*. When Mrs *Barnes* was examined before the Council, upon *Kelly*’s being taken up, she was upon the Reserve, and would confess nothing that she thought might tend any Way to hurt *Kelly*, but being ask’d about this little Dog, who it was for, she readily answer’d, that *Kelly* had told her, it was for the Bishop of *Rocheſter*, which she has since confirmed by Oath at the Bar of this House. This little Accident, not suspected at the Time of the Discovery to be of any Consequence, has given Occasion since to look into so many Circumstances, as plainly bring the Matter home to the Bishop. And indeed, if all the Particulars in the intercepted Letters be compared with those Things that are in Proof with respect to the Bishop, I believe your Lordships will be of Opinion, that they cannot all belong to any one Person in the World besides himself. In the first Place, since ’tis prov’d that *Kelly* wrote these Letters, the Person who dictated them must have been an Acquaintance of *Kelly*’s ; it is confess’d on all Hands that the Bishop was so. In the next Place, it is implied in one of the intercepted Letters, that the Person that went by the Name of *Jones* and *Illington* was a Clergyman ; so far still agrees to the Bishop. Again, this Person is mentioned in all the intercepted Letters, as a Person of great Consequence and Credit, upon whose Advice the Party very much depend : And indeed the very Manner and Air of writing the three Letters plainly shew, that the Person who wrote them thought himself so ; this also agrees with all the other Discoveries about the Bishop. Were there no other Particulars but these, it will be hard to imagine that they could well belong to any other Person ; but if we consider farther, that this *Jones* or *Illington* came to Town such a Day of the Month, went out of Town such another Day of the Month, came back again to Town such another Day, was himself sick at such a Time, that his Wife was sick at such another Time, and that she died at such a Time ; all which are an Evidence with respect to the Bishop ; if we do, I say, consider all these Circumstances together, it will plainly appear, that they can belong to no other Man in the World but the Bishop.

‘ After this, I humbly apprehend nothing need be said ; however I beg Leave just to mention something relating to the Letter that was taken upon the Bishop’s Servant ; by the whole Air of which Letter, it looks as coming from a Person who did not esteem himself to be innocent, but who thought that nothing could be legally prov’d against him ;

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and therefore there is not one Word of his Innocence in it, Anno 9. Geo. I.
 which is the first Thought that must naturally have come in-
 to the Head of any one that really was so ; he writes whol-
 ly with the Air of a Man that had been used to Intrigues ;

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speaks of the Concern that his Friends should have for him and the Cause ; discourses largely about the Kind of Evidence that was against him ; takes Notice in particular what cannot affect him, *If (says he) the Narrative (or Report) relates chiefly to Neynoe's, Semple's and Layer's Affairs, so far it cannot affect me, for I never heard of the Names of either of the three, till after this Plot broke out.* It is plain by these Words, that he did not then know what was in the Narrative against him, but he is very sure that neither *Neynoe*, nor *Semple*, nor *Layer* could affect him. Could an innocent Man have thus distinguished, and could not they have affected him as much as any Body else, if he really was innocent ? Nothing can affect such a Person but Forgery, and that may come from any Quarter ; but in the whole Letter he does not express the least Suspicion of Forgery ; and yet this is the first Thought that must naturally have come into the Head of an innocent Person. I beg Leave to hint at this one Thing more, that as he says that these three Persons could not affect him, because he never knew them ; so accordingly they have not affected him, or said any Thing of their own Knowledge about him ; which is one good Evidence, that what is said against him is not forged but real.

Having spoken to the Justice, I shall be shorter upon the next Head, which is the Expediency or Prudence of this Bill. Had there been what we call legal Evidence against the Party concerned, your Lordships, I take for granted, would not easily have gone into this extraordinary Method of proceeding ; for tho' it cannot be doubted but that the Parliament have this Power, whenever they think proper to make Use of it, yet I do agree with the noble Lords, that it is a Power not fit to be used, but where and when the publick Good requires we should use it, which I humbly conceive is the Case at present. A most dangerous Plot against the Government has been discovered ; a great Number of Letters and Papers relating to it, have been laid before the two Houses of Parliament ; these have been printed and published by Order of both Houses : The Eyes not only of our own Country, but of all *Europe*, are upon us to see what we will do, tho' the Evidence of a Plot in general be as clear as the Light, and the Evidence against several particular Persons very plain ; yet, as our Laws are, it is not what we call Legal Evidence ; the Parties concerned will make no Confession, and we have not the Methods used in all other Countries, to extort Confessions from them : What then ? Shall

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we see our King and Country in Danger, and do nothing for them? Shall Conspirators go on with total Impunity, only because they are obstinate, and artificially screen themselves behind the Law? I doubt, my Lords, that if this prove the Case, we shall appear ridiculous in the Eyes of all the World; that our Friends and Enemies, both at Home and Abroad, will think that we have no Zeal for the Preservation of our King and Government; and if once they do think so, your Lordships cannot but be all sensible, how this must encourage our Enemies and discourage our Friends, and bring us into that contemptible State, in which no Government was ever long supported.

‘ But a Noble Lord [*Lord Couper*] has been pleased to observe, that the best way to serve the Government, is to do Popular Things, and by that to procure the Love of the People. I perfectly agree in this, and cannot but be of Opinion, that this Government has done so, as far as it has been able: Our Religion has been preserved; Justice has been equally administered to all Sorts of People; none of our Rights or Liberties have been invaded; we have liv’d in Peace at Home, while many other Countries have suffer’d all the Miseries of War; these are, or I am sure should be, esteemed popular Things: And if some other Things, which might have been for the Good of the People, have not been done, it has been the Fault of those that complain most, and not of the Government. And if there be Discontents now in the Kingdom, it’s plain that the Foundation of ’em was laid long ago by the Enemies to our present happy Settlement: For I am persuaded, that the Discontents were higher and greater within four Months after the King came to *England*, and shewed themselves much more, in a Number of rebellious Riots and Tumults, than any Thing that appears at present, and yet Nothing then could be objected to the Government, but that some Persons were not preferred, who both before and since have made it too plain that they were not fit to be trusted. But as it is the Duty of those in Power, to do all the popular Things they can; so, I must beg Leave to observe, that it is the Duty of all the Subjects, (and the Greater they are the more it is their Duty to put the best Interpretation upon the Actions of the Government, that Things will bear; not to misrepresent; not to put false Colours upon Things; and much more not to invent Lies and Slanders, and disperse ’em up and down the Kingdom, in order to alienate the Affections of the People: These Things have been done, and done with great Care and Diligence, and by some too, who would take it very ill to be called *Jacobites*. These are the chief Causes of the Disaffection among us, and indeed of all the real Grievances we labour under. Is the King forc’d to put the

the Nation to Charges, to keep up a greater Number of Forces than otherwise would be needful? It is entirely owing to this Cause. Are our Debts not paid? Is our Credit not so good as we would be glad to have it? Let this artificial Raising of Discontents once cease, and these Things will quickly mend of themselves. Indeed, were this a Time for it, I think it might plainly be proved, that the Debts we labour under had never been contracted, but for this absurd discontented Humour: Nay, it is to this, that we entirely owe the Danger we are in from this very Plot; for it's plain from all the Intelligence we have about it, that it was carried on upon the Confidence, that all discontented Persons were *Jacobites*; and tho' the Conspirators did in this greatly deceive themselves, yet it's certain, that they built their Hopes upon this Foundation.

‘ But ’tis farther said by the same noble Lord, that this extraordinary Way of proceeding, will not procure Friends to the King; but will rather anger and provoke, and so hurt his Interest instead of helping it. To this I answer, that I do indeed suspect, that many People will be angry; as I hear that the *Jacobites* through the Kingdom are: A plain Evidence this, that they do not think that the Friends of King *George* are worrying one another; for they would not be angry at that. Those that most desire to destroy our Liberties, are become, upon this Occasion, the great Patrons of Liberty; as indeed they have been in a great Measure ever since the Revolution, when any Thing has been proposed for the Support of the Government. No sooner were their Schemes of Arbitrary Power in the Time of King *James* overturn'd, and a new Government settled which they did not like, but they, in order to destroy it, set themselves against every Thing that was necessary for its Defence, under the Colour of Liberty; that is, they desired to have their own Hands as loose as possible, to hurt it; and the Hands of the Government as much tied up as possible, that it should not be able, either to hurt them, or defend itself. Thus at present, they clamour against the Additional Forces, tho' establish'd by Parliament; and against all Methods, either to discover or punish the Conspiracy. And they judge right in this for their Cause, because, if they could have carried these Points to their Mind, they might then be more free in carrying on their Plots, and with less Danger put them in Execution. For these Reasons I take for granted, that all these People will be angry; but I cannot but be of Opinion that it is much better they should be angry with us for defending our selves, than that they should, first sneer at us, as Fools for neglecting our Defence, and then be able more easily to undo us.

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‘ As to others, that possibly may be displeas’d at what we are now doing, I would hope, that a little Time and Consideration will set ‘em right, and convince them, that it is not only just, but (all Things considered) necessary to be done; because, if the Parliament do, upon this Occasion, shew their Zeal in the Defence of the Government, it will animate and give Courage to the Friends of it, both at Home and Abroad. Foreign Powers will be apt to court the Friendship of a Prince, at the Head of a mighty Kingdom, if they see, that he and his Posterity are like to continue there: All the Affairs of the Kingdom, which respect them, will be manag’d with more Ease, with more Honour, and with less Expence; and they will be inclin’d, not to foment, but to discover Plots, if they come to their Knowledge. But on the contrary, if we give them any Reasons to suspect, that we look another Way, they will quickly do so too, and strive which shall be forwardest to help the *Pretender* to involve us in Blood and Ruin. And as to the Subjects at Home, I would only observe, that all Mankind are apt to shew most Zeal for a Government, when they think it safe, and like to stand, and be able to protect them: But to suspect the contrary, is a most dangerous Temptation to the Fidelity of Subjects, as has been seen by the Experience of all Ages. And therefore I hope, that your Lordships will, by your Unanimity and Zeal in this Matter, effectually convince the World, that the Danger does and shall lie, in Opposing, and not in Defending the present Government.

‘ I hope what I have been saying, has convinc’d your Lordships, both of the Justice and Prudence of this Bill; give me Leave to observe, that your Moderation has been very great too, both in giving so full and fair a Hearing; and in making the Penalties so much less than the Crimes deserve. It is not above a Year since the Plot was first discovered; a Plot of a most desperate Nature, to seize the Persons of the King and Prince, and to bring in a *Popish Pretender* upon us. The Execution of which, was to be begun by seizing the *Tower*, and attacking the City of *London* on all Sides; and was thence to spread it self into all Parts of the Kingdom. Lord! what Confusion, what Murthers; what Plundering; what Burnings must this have caus’d? Whatever had been the Issue, the very Attempt must probably have occasion’d the Sacking and Burning of this great City: The utter Loss at once of all publick Credit: The Murther of infinite Numbers of People: The Astonishment and Amazement, and Undoing of almost all, but of those vile Wretches who would have had the Plundering of all Sides: If it had gone on, how many of the noble Lords that I now see, would have been before this in their Graves? But I forbear going any further in
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this tragical Representation, and desire only to observe, that Anno 9. Geo 1. tho' it has been discovered about a Year, how very little of it we yet know; and I do appeal to your Lordships Consideration, who know the State of the World very well, whether there be any Country in it, either bond or free, which, had they discovered but a fifth Part of what we know of a Plot of this Nature, would not, in a Week's Time, have found Means to get to the Bottom of it. However, my Lords, I still commend your Moderation, and do hope, that we shall never find Reason to repent of it, and that this little which is now doing, will be a Warning to Conspirators not to provoke further the Patience of an injured Nation. I doubt not but upon this, and all other Occasions, your Lordships will be ready to stand by a wise, and a good, and a merciful Prince, and that you will, according to your Oaths, defend him against all Treasons, and traiterous Conspiracies whatsoever. And in the last Place, give me Leave as a Christian and a Protestant Bishop, to hope you will do your best, that a *Popish Pretender* may never be set at the Head of this *Protestant Church*: One, who must think himself bound in Conscience to destroy it, and, instead of that pure Religion which we now enjoy, bring in horrible Superstition and Idolatry, Nonsense and Tyranny, attended with all the sad Calamities, which *Popish* Princes always have brought, and always must bring upon *Protestant Countries*.

The Bishop of *Chester* * spoke next, and own'd, ' That ex- Bp of Chester, traordinary Proceedings may be recurr'd to, upon extraordinary Occasions, and when they are evidently necessary for the Preservation of the State; but that this was very far from the present Case, since the Conspiracy, in which the Bishop of *Rocheſter* was charged to have had a Share, had been discover'd and disappointed long before. He was answer'd by the Bishop of *Lincoln* †, to whom the Duke of *Wharton* reply'd as follows :

Bp of Lincoln.
D. of Wharton.

My Lords,

* Some Words which have fallen from the Reverend Prelate who spoke last †, have made it, in some Measure, necessary for me to trouble your Lordships with the Reasons that induced me to differ with him in Opinion, and to give my Negative to the Bill now depending before us.

† If I don't misunderstand his Lordship (and if I should mistake his Meaning, I hope he will set me right) he was pleased to say, ' That Persons without Doors would be apt to cast different Reflections on the particular Behaviour of every Lord this Day; That those who were for the passing of this

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* Dr Gaſtel.]

† Dr Gibſon.

‡ The Bishop of Lincoln.

Bill, would be accused of Malice and Partiality, and those who were of contrary Sentiments, would be branded with Disaffection to the present happy Establishment.

‘ For my Part, I am far from thinking, that Considerations of this Nature will have the least Weight with any of your Lordships, and am very certain, that every one, who gives his Vote on this important Occasion, has attended, with the greatest Care, to the Evidence that has been given at your Bar, which is the Foundation of this Day’s Debate.

‘ The Proofs that have been brought to support the Charge, and the Bishop’s Defence, are to be thoroughly considered ; and when your Lordships proceed according to the Rules of Justice, you will not fear nor value any Consequences which may attend the discharging of your Duty.

‘ So far I will venture to affirm, that the best Way to shew our Zeal to his Majesty and the present Government, is to act, in all Cases, both in our judicial and legislative Capacities, with that Honour and Impartiality, as ought to flourish in this great Council of the Nation.

‘ I could have wished the Noble Lords who have given their Reasons for the passing this extraordinary Law, would have entred into the particular Circumstances of this Case, and considered it singly on its own Merits, but instead of speaking on that Head, I cannot but take Notice, that they have wandered from that, which ought to have been their only Consideration, into learned Discourses on Bills of this Nature in general.

‘ I shall not trouble this House with any Arguments against Attainders : Many Lords, of greater Weight and Abilities than myself, have already spoke fully to this Point in the preceeding Debates.

‘ I shall only so far agree with the Reverend Prelate who spoke before me, that it is proper, that such a Power of punishing by Bill, should be vested in the Legislature to be exercised on extraordinary Emergencies ; but then I must add, If ever that Power is abused, if ever it is employed to destroy innocent Persons, it is evident that the Lives, Liberties, and Fortunes of every Subject in *Britain* are in the utmost Danger, and liable to be sacrificed to the Fury of a Party.

‘ It has been admitted, that every Bill of Pains and Penalties is to stand upon its own Bottom ; and that the passing of one Act of this Nature, is not to be brought as a Precedent for the supporting of another, unless there be convincing Evidence to enforce each Case. And therefore the proper Consideration now before us, is, Whether the Evidence offered against the unfortunate Prelate is sufficient to induce

induce your Lordships to believe him guilty of the heavy Crimes of which he stands accused ? Anno 9. Geo. I.
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My Lords,

‘ I shall take the Liberty of considering the whole Proofs that have been brought on this Occasion, both by Way of Charge, Defence, Reply, and Rejoinder ; and though I own myself very unequal to this Task, yet, since no other Lord, who could do it much better, has undertaken it, I think it my Duty, as a Peer, and as an *Englishman*, to lay it before your Lordships in the best Manner I am able.

‘ The Method I shall observe, for the more clear stating of the Case, shall be to lay every particular Branch of Evidence before you, and to distinguish the several Parts of the Accusation, and consider them separately, to avoid Confusion, and to be the more exact in what I have to offer.

‘ I hope I shall have your Lordships Indulgence for taking up so much of your Time as this will require, but I assure you I shall endeavour to be as brief as the Nature of the Thing will admit, and will intrude on your Patience as little as possible.

‘ I must also desire your Lordships will pardon me, if I repeat several Arguments that have been used by the Counsel at the Bar, and if I even mention some Things which fell from me in the Debate on Mr *Kelly's* Bill, whose Case is very much interwoven with the present, so that it is almost impossible to avoid it.

‘ Before I go any farther, I cannot but say, That were these Crimes plainly proved against the Bishop of *Rocheſter*, his sacred Function and Station in the Church would be Aggravations of his Guilt : But, as this is certain on the one Hand, so, on the other, your Lordships will require very clear Demonstration before you can think it possible for a Bishop of the Protestant Church, who has signalized himself in Defence of the Reformation, and the only one of that Bench where he had lately the Honour of sitting, that ever wrote in Favour of *Martin Luther*, [See the *Bishop's Defence*, p. 328.] to engage into a Conspiracy for introducing Popery and arbitrary Power amongst us.

My Lords,

‘ The Counsel for the Bill opened the Charge with acquainting the House, That it was only to be supported by producing of decypher'd Letters, full of fictitious Names and Cant Words ; they were so very fair as to confess, they had not one living Witness that could charge the Bishop with any Thing, nor even so much as a Letter under his own Hand ; therefore, on the first View, this Manner of condemning on such Kind of Evidence, ought to require our utmost Caution, lest we should establish a Method, which our Enemies

Anno 9. Geo. 1. may hereafter take to destroy the greatest and most innocent Subject in the Kingdom.

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‘ Mr *Wearg* * cited two Cases, which he would willingly have us receive as Precedents, to justify the admitting of Circumstantial Evidence; the one was the Case of *Ayton*, who was condemned on Circumstances only; but, my Lords, this was before the Treason-Act was passed, which requires two positive Witnesses, and nothing could induce the Legislature to pass that Law, but a thorough Conviction of the Danger that might attend the admitting of any Proofs which were not positive or certain.

‘ The second Case he cited was that of *Harrison*, for the Murder of Dr *Clinch*, and the learned Gentleman tells you, that it was the pulling out of a Handkerchief that led to the Discovery of that Murder. It is very certain Circumstances may lead to the Discovery of Evidence, but must be well supported before they can be converted into convincing Proofs.

‘ The First Piece of Evidence that was offered at the Bar, was the Extracts of Letters from abroad, which this House seems, in some Measure, to have declared to be immaterial, when they did not so much as desire to see Copies of the whole Letters, nor the Originals, and even admitted one to be read which was anonymous: But it will not be improper to observe, that through this whole Correspondence, the Bishop of *Rochester* is not named. And therefore I cannot see why they took up our Time with reading Papers quite foreign from this Case; especially since every Body allows there has been a Conspiracy, which is the only Fact to be gathered from this Correspondence.

‘ The next Point which was attempted to be proved, was, That Captain *Halfhead* went to fetch the late Duke of *Ormond*, and was at the Deanery with the Bishop before he embark’d; There are also two Letters found in the Bishop’s Close-stool from this Gentleman to his Lordship, which were read, and are only Appointments for Visits, but mention Nothing of this Design; and, I think, there was a Coachman, that proved *Halfhead* was an Hour with him some Days before he left *London*.

‘ This, my Lords, was opened as a Matter of great Importance; but your Lordships must remember, that the supposed Design of *Halfhead*’s bringing the late Duke of *Ormond* into *England*, is only proved by Hearsay. One of the Crew belonging to the Ship in which he went, has deposed, That it was the Common Report at *Bilboa*, that *Halfhead* came there on that Errand.

‘ How

* Appointed Solicitor-General, and knighted, Feb, 2, 1723-24-

How far common Fame is to prevail, I submit : But if this Hearsay were true, is every Person who was an Hour with this Gentleman before his Departure, supposed to be privy to this Project ? And what a strain'd Construction is it to insinuate, The Bishop of *Rochester* knew of his Intention, because he received a Visit from *Halstead*, who was a Tenant under his Bishoprick ? And this is the more extraordinary, since it has not been so much as pretended, that any Correspondence has passed between the Reverend Prelate and the late Duke.

Anno 9. Geo. 2.

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They then produced Letters directed to one *Dunwill*, which were decyphered. And Mr. *Willes* was examined to prove that they were rightly and justly explained.

My Lords,

It very well deserves your Lordships Consideration, how far this Kind of Evidence is to be admitted : It has appeared to your Lordships by the Oath of Mr. *Willes* himself, that it is an Art which depends upon Conjecture ; for this Gentleman has confessed, that every Man is liable to a Mistake in this, as well as in other Sciences ; He tells you, that he and his Brother Decypherer varied in one or two Instances : He allows, that the *Chasms*, which they were forc'd to leave in those Letters, might alter the Sense of them. And, therefore, I cannot but think, that an Accusation grounded on such Proofs, is uncertain and precarious.

The Person who is the Decypherer, is not to be confuted, and what he says must be taken for granted, because the Key cannot be produced with Safety to the Publick ; [see p. 306.] and, consequently (if his Conjectures be admitted to be Evidence) our Lives and Fortunes must depend on the Skill and Honesty of Decyphers, who may with Safety impose on the Legislature when there are not Means of contradicting them for Want of seeing their Key.

My Lords,

In the Case of *Coleman*, the Key was printed, as has been well observed by the Council at the Bar, and I am very much surprized, that Gentlemen of such Abilities and Integrity, as the Members of the Secret Committee in another Place (who were so exact as to print the *French* Originals to the translated Letters, that the World might see how just and candid the Prosecutors of the Plot were) did not, for the Satisfaction of the Publick, permit us to see the Key in Print, on the Truth of which depends such a Chain of Consequences.

I own myself intirely ignorant of this Art ; but, as I should be very far from condemning a Man on my own Conjecture, I should much less do it on the Conjectures of others.

The greatest Certainty human Reason knows, is a mathematical Demonstration, and were I brought to your Lord-

Anno 9. Geo. I. ships Bar to be try'd upon a Proposition of Sir *Isaac Newton's*, which he upon Oath should swear to be true ; I would appeal to your Lordships, whether I should not be unjustly condemned, unless he produced his Demonstration, that I might have the Liberty of enquiring into the Truth of it, from Men of equal Skill ?

1723.

‘ I cannot think any Man will allow Evidence of this Nature to be good ; but if in this Case relating to the decyphered Letters to *Dumwill*, your Lordships should admit it, there is Nothing mentioned in them that can affect the Bishop, neither is he at all nam'd in them, but they are only brought to prove the Conspiracy in *general*.

‘ The Examinations of Mr. *Neynoe* are the next Points that are laid before your Lordships ; and, indeed, I must do the Gentlemen at the Bar the Justice of saying, that they forbore mentioning any Thing of them, when they open'd the Charge.

‘ They were so sensible that such Proofs could not have the least Weight to affect the Bishop, that though in the Case of Mr. *Kelly* they were produced against him as very material to support that Bill, yet they did not think proper to name them against the Bishop ; which I am thoroughly persuaded, is owing to what appeared at your Bar by the Examination of Mr. *Bingley*, and the universal Opinion which every Person seemed to have of the Villainy of Mr. *Neynoe's* Transactions.

My Lords,

‘ These Examinations were never signed by the Person, neither was he ever examin'd to them upon Oath ; so that, were they of Consequence, and he a Person of Credit, they could not be admitted to affect any Person whatsoever, in any Court of Justice or Equity. I don't mean, that they could not be read according to the strict Rules of *Westminster-Hall* ; which is admitted on all Sides they could not ; but I dare affirm, that no Credit can be given to them on any Account whatsoever.

‘ The Person was closely confin'd, and consequently in the Hands of the Government, so that he was at that Time under the greatest Apprehensions, which might in some Measure, prevent him from speaking Truth, with that Sincerity and Candour, of which every Person ought to be Master, when he is examin'd on Matters of such nice Nature.

‘ Though these Papers were intirely given up by the Council for the Bill, yet the Extract of them was read, and they are the visible Foundation of this Charge ; and if they are insignificant, the whole Accusation falls to the Ground : For the whole Proof of the Bishop's Dictating to Mr. *Kelly*, depends on Mr. *Neynoe's* bare Affirmation.

‘ The

‘ The whole of what *Neynoe* says, or is supposed to say, is, that Mr. *Kelly* told him he wrote the Bishop’s Letters for him; Mr. *Kelly* denies it, and Mr. *Neynoe* was so conscious that he had been guilty of many Crimes, that he endeavour’d to withdraw from Justice, and the Providence of God, it is said, intercepted him.

Anno 9. Geo. I.
1723.

My Lords,

‘ If you will consider the Improbabilities of this Evidence, although it were upon Oath, and signed by him, it cannot be supported. He tells you, that he was intrusted to draw up Memorials to the Regent; yet none of those have been produced, and yet it is apparent the Copies of them might with Ease have been obtained, if he had been as thoroughly pressed to deliver them, as he was to declare he wrote them.

‘ These Memorials, he says, were wrote by the Order of Mr. *Henry Watson*, whom he takes to be the late Earl *Marshall*: And I am certain your Lordships don’t think that Fact material, when you came to a Resolution, that the Bishop of *Rocheſter* should not be at Liberty to ask, if Enquiry was made of the said *Neynoe*, or if he gave any Satisfaction to the Lords of the Council, touching that important Fact of *Watson*’s, whom he took to be Earl *Marshall*, lying with him several Nights.

‘ It was very well observed by a learned Gentleman at the Bar, That Nobody can believe the late Earl *Marshall* would have reposed so great a Confidence in a Person, who was intirely a Stranger to him, and of such little Note; and the *Jacobite* Party must be in a low Condition, when they make use of such a Creature to write Papers of that Importance.

‘ There is so much Improbability in this and other Points, and so much Contradictions in several Parts of his Examinations, that they appear to me, and must to all reasonable Men, as the Dictates of Fear, and not agreeable to Truth.

‘ He mentions, ‘ That the Reverend Prelate, (for such I still may call him) had some Favours offer’d him by the Court; but that cannot be true, and must be added to the rest of these Absurdities.

‘ But, My Lords, what in my Opinion clears up all these Matters, and makes it impossible for me to give the least Credit to this, or any other Part of the Charge, are the several Testimonies of *Bingley*, *Skeen* and *Stewart*. [See p. 309.]

‘ I must observe to your Lordships, That the two first Persons, *Bingley* and *Skeen*, are actually now in separate Custodies; and consequently, could have no Communication one with another. The third is at Liberty; but his Testimony is so thoroughly supported by Mr. *Gordon* and Mr. *Kynaston*, [See p. 310.] that no Doubt can arise as to the Veracity of it.

Anno 9. Geo. 1.

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These Gentlemen, who are in the Hands of the Government, are under Hopes and Fears, and therefore, it is certain, when they speak a Language, which perhaps, may be disagreeable to those on whom they at present chiefly depend, it must be the Spirit of Truth that prevails.

Mr. *Bingley* was before us in the Case of *Kelly*, and was also examin'd at the Bar of the House of Commons, though not upon Oath; and though he has been more severely treated, as he told your Lordships, and more strictly confined since his first Examination, yet he has persisted in his Story; and though he was so long at your Bar, and so many Questions put to him, yet he never varied in any one Circumstance, but appeared consistent through the whole Course of his Behaviour.

I shall not detain your Lordships with recapitulating his whole Evidence, for I did it very fully on a former Occasion. But your Lordships will remember, he told you, *Neynos* abounded in Money, which *Neynos* said, after he was apprehended at *Deal*, an honourable Person (and on this Occasion, I hope, I may name him) Mr. *Walpole*, gave him; and more particularly, he mentions 50 *l.* which *Neynos* said he received the Night before he went to *France*.

Bingley told your Lordships, 'That *Neynos* had assured him, he used to meet this honourable Person in the *Stable-Yard* at *Chelsea*; and, my Lords, The Errand on which he was going to *France*, was to discover some Secrets relating to Cyphers, which he would have engaged *Bingley* to have done for him; and particularly, to get them if possible, out of Mr. *Kelly*; which, he said could he obtain, would be of great Advantage to him.

'That *Neynos* had declared to him, 'He would be even with Mr. *Kelly*, before he was aware of it, or Words to that Effect; and that Mr. *Kelly* always seem'd averse to any Acquaintance with Mr. *Neynos*, of whom he entertained a mean Opinion.

'That *Neynos*'s Father refused him Money, which makes it highly probable that his Poverty was the Occasion of his Villainy; and that when he was taken at *Deal*, he had declared to him, Mr. *Walpole* expected to find the Plot about him; and since Mr. *Walpole* could not, he must make one for him.

'*Neynos* told *Bingley*, 'That this honourable Person had vowed Destruction to the Bishop of *Rochester*, by saying, He would pull down the Pride of this haughty Prelate; [See p. 309.] which is sufficient to convince your Lordships how little Regard ought to be had to the Hearsay Evidence of so false a Wretch.

' Mr

‘ Mr. *Bingley* says, ‘ That Part of this Account he had given to the Lords of the Council ; and I could have wished, that his Examination (as well as some others to the same Purpose, which were taken about the same Time) had been laid before the Parliament. Anno 9. Geo. I.
1723.

‘ Mr. *Skeen*, who is also in Custody, has deposed, ‘ That he lay in the same House with *Neynos*, and had some Conversations with him.

‘ That *Neynos* had told him, ‘ What he had said of the Bishop of *Rockester* was intirely false. And,

‘ That Mr. *Walpole* had offer’d him a considerable Annuity to turn Evidence ; and had given him Instructions before he was called in to the Lords, what Questions would be asked him, and what Answers he should make ; and threatned him with *Newgate* if he would not comply.

‘ *Skeen* says further, ‘ That *Neynos* swore (and I hope the Reverend Bench will, in such a Case, permit me to repeat the Words) by God, there were two Plots ; one of Mr. *Walpole*’s, against the Protestant Lords, and one of his, to bite Mr. *Walpole* of Money ; [See p. 310.] and this seems to be the only Time that ever Mr. *Neynos* averr’d any Thing upon Oath.

‘ To convince the World, what a Creature this *Neynos* was, he tells *Skeen* further, ‘ That once at Lord *Townshend*’s Office, he had a great Inclination to have stabb’d the Chancellor of the Exchequer. He tells you, ‘ That *Neynos* had wrote a Paper to declare, that all he had said of Lord *Orrery* was false.

My Lords,

‘ The next Witness was Mr. *Stewart*, who was unfortunately in Custody when *Neynos* was brought to Town from *Deal*.

‘ *Stewart* says, ‘ That he slept the second Night with *Neynos*. That *Neynos* had told him what he had said of the Bishop was false ; and that Mr. *Walpole* had offered him a great Sum of Money, if he would swear to what he said, and turn Evidence, which he declared he could not do.

‘ That Mr. *Walpole* had taken him into another Room before he was examined, and told him what Questions he would probably be asked, and what Answers he should give.

‘ He says, ‘ That *Neynos* told him also, that he had like to have kill’d Mr. *Walpole*, and so put an End to the Plot : And that Mr. *Walpole* had given him a Paper of Directions, which he was to answer, in order to be a Witness against the ‘Protesting Lords.

‘ As a Confirmation of his Testimony, *Stewart* says, ‘ He told this to Mr. *Gordon* before Mr. *Neynos* was drowned, and to Mr. *Kynaston* before the Meeting of the Parliament.

Anno 9. Geo. I.

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‘ Mr. Gordon confirms this Part of his Evidence, and assures your Lordships, ‘ That he had heard it from *Stewart* before the Death of *Neynoe*. And Mr. *Kynaston*, a Gentleman of an undoubted Character, lately a Member of Parliament for *Shrewsbury*, has assured your Lordships, ‘ That he was acquainted with Mr. *Stewart*’s Account of *Neynoe* before the Meeting of the Parliament ; and adds this Circumstance, that when in the *Appendix* he saw those six Questions printed, he shew’d them to *Stewart*, who seem’d rejoiced, and said, ‘ You see, Sir, what I told you is true.

† Such concurring Testimonies from Persons kept so separate, and who are speaking against their own private Interest, must have the greatest Weight, and must at least prevent any rational and impartial Person from giving the least Credit to the bare Hearsay of this *Philip Neynoe*.

‘ If any Doubt could remain, as to the Validity of this Testimony, it is sufficiently confirm’d by the Persons brought to disprove it.

‘ The Chancellor of the Exchequer himself * does not pretend to deny that *Neynoe* told these Things, but only adds other Circumstances to convince you of *Neynoe*’s Villainy ; and assures you, That at the Time he was receiving Favours from him, he was thoroughly convine’d he intended to cheat him, which was the Occasion of his being apprehended.

‘ He own’d the Transactions between them before *Neynoe* went to *France*, and particularly the Money mentioned by *Bingley*, which are Proofs that *Neynoe* must have discovered these Secrets, since they could not come from Mr *Walpole*, and he and *Neynoe* only were privy to it.

‘ Mr. *Walpole* has shewn your Lordships the foul Draught of the Questions mentioned by *Stewart* ; and when he denies that Part of *Neynoe*’s Declaration, relating to the Instructions given him before the Examinations, he owns he was twice alone with him, once the first Night of his being brought to Town, and the second Time, when he gave him the Paper of Directions, which might be Foundation enough for *Neynoe* to frame so notorious a Falshood.

‘ The Witnesses brought by the Counsel for the Bill, to the Character of Mr *Bingley*, seem rather to confirm it than otherwise ; and all agree they never heard any Thing against his Morality. They indeed have said, he bore the Character of a *Jacobite*, and suffered for having dispersed a Libel : But Mr Baron *Gilbert* †, who was his Judge when that Punishment was inflicted on him, has told your Lordships, that his private Life was not vilified at his Tryal, and that neither Perjury or Forgery was ever laid to his Door.

‘ Tho’

* Mr Walpole.

† He was Lord Chief Baron of Ireland at that Time. — See before p. 121, Anno 1719.

' Tho' the Punishment he suffered was the Pillory, yet it Anno 9. Geo. I.
is the Crime, and not the Punishment, that makes the Igno- 1723.
miny, and for this I can appeal to the learned Judges.

' In order to destroy the Evidence of Mr *Skeen*, they produced one *Pancier*, who tells you, ' That *Skeen* had revealed many Secrets to him relating to the Plot, and particularly of a Military Chest, which was collected to carry on these supposed Designs, and support the *Jacobites*. But I presume every Body who heard the two Persons at the Bar, could not but remark the Steadiness with which Mr *Skeen* denied these Asseverations, and the Confusion with which the other affirmed them.

' Mr *Pancier* seem'd to drop something, which entirely destroys any Credit that could be given to him, by saying, ' That he had own'd to Mr *Skeen*, that he was a Friend to this Administration, and yet has sworn, that after such a Declaration, *Skeen* had still persisted in his Story, and revealed some Part of this Intelligence to him. How far this is probable, your Lordships are the best Judges.

' Mr *Pancier* goes further, and tells you, ' That Part of this Conversation happened in *St James's Park*, in the Presence of one *Dufour*. This *Dufour* was in the Hands of the Government, and I can't conceive why we have never seen him or his Depositions, when it would have been so easy to have brought this corroborating Witness to Mr *Pancier's* Testimony.

' I cannot but think, that the not producing this Man's Evidence is a strong Circumstance to convince your Lordships he did not agree in the same Story with Mr *Pancier*.

' They also produced *Skeen's* Attainder for the *Preston* Rebellion; but there have been many Acts of Grace since, so that he is capable of being an Evidence; and there has nothing appeared to traduce his Character as a Man of Morals.

' In order to shew your Lordships, that *Neynos* could not possibly make these Confessions to Mr *Skeen* and Mr *Stewart*, the Counsel for the Bill maintain, that they will prove *Neynos* and the Prisoners were not together after the first Night.

' This, my Lords, would be very material, but I think it appears by the Proofs brought to support this Assertion, that they frequently have conversed one with another.

' The first Witness they call'd was Mr *Crawford* the Messenger, in whose House the Prisoners were in Custody, and, my Lords, I can't but say, it seems very odd, they should bring a Man to swear he had done his Duty; he has told your Lordships, ' That Lord *Townshend* had given him Orders that *Neynos* should be close confined; and if, after that, it should appear that he had neglected such Directions, there

Anno 9. Geo. I. there is no Question but that he instantly, and deservedly, would have been removed out of his Employment.

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‘ This Messenger, in this Situation, tells you, ‘ That after the first Night they never convers’d, to the best of his Knowledge ; That Mr *Skeen* call’d *Neynoe* a Rogue of an Informer, and spoke in very hard Terms of him ; which I indeed think it appears the Fellow well deserv’d.

‘ *Crawford* says, ‘ That Mr *Neynoe* had some Paper, two Sheets of which he found missing. He likewise swears, That Mr *Stewart* lay upon the Stairs ; and owns, he had at that Time two Servant Maids.

‘ Mrs *Crawford*, his Mother, swears, ‘ That, to the best of her Knowledge, the Prisoners were never together ; That she kept the Keys of the Rooms herself, but used to send up the Maid, *Hannab Wright*, with the Dinner.—Your Lordships will observe that both this Woman and her Son swear to the best of their Knowledge only, and are far from positive Witnesses.

‘ *Hannab Wright*, when she was first called, spoke in the same Language with them, tho’ she afterwards recollected herself better.

‘ When the Bishop came to rejoin, *Francis Wood*, *Thomas Wood*, and Mr *Russel* severally say, ‘ That this *Hannab Wright* had declared to them, that she used to let the Prisoners converse together whenever she had an Opportunity, which was when Mr *Crawford* and his Mother were out of the Way ; and that she used to stand upon the Stairs and give Notice when any Person came, that they might retire into their several Rooms. And the other Maid, whose Name is *Christian*, has deposed, ‘ That *Hannab* gave the Key of *Neynoe*’s Room to *Stewart*, and several Times desired *Stewart* to go up to him, and that they were together an Hour or two. And when *Hannab* was call’d a second Time, she own’d she was turn’d away for Suspicion of having helped *Neynoe* in his Escape ; That she has left *Skeen*’s Door open, who lay near *Neynoe* ; and that there was a large Hole in *Neynoe*’s Door through which they might converse.

‘ She said, ‘ That *Neynoe* gave her a Paper, which she was to convey for him, but that it was taken out of her Bosom, and burnt by one of the Prisoners.

‘ When Mr *Stewart* said, ‘ That he sat upon *Neynoe*’s Bed the second Night, and lay in the Garret where there was a Partition, but a Communication between them ; *Hannab* said, ‘ She could not be positive to that, but believes it true.

‘ Mr. *Crawford*, when he was called to that Point, according to his usual Custom, denies it to the best of his Knowledge,

‘ Your

‘ Your Lordships will now judge, whether the greatest Credit is to be given to the Belief of a Messenger and his Mother, who are swearing that they did their Duty, or to the positive Oaths of *Skeen, Stewart, Gordon, Kynaston, Francis Wood, Thomas Wood, Ruffel, and Christian*, confirmed by the Confession of *Hannab Wright*, when she came to be cross-examined and confronted.

‘ This, my Lords, concludes what has appeared at the Bar, relating to Mr *Neynoe* and his Transactions, and I am pretty certain every impartial Body must agree with me, that so far from giving the least Credit to what he says, there have appeared such Circumstances in the Transactions which are now come to light, that must make the greatest Caution necessary, before we believe any other Part of the Charge.

‘ Your Lordships will take Notice, that Mr *Crawford* confesses Mr *Neynoe* had the Use of Paper, and found two Sheets missing, and *Hannab Wright* owns she had a Paper from him, which was burnt by one of the Prisoners. This, my Lords, undoubtedly was the Paper relating to Lord *Orery*, mentioned by *Skeen* in his Evidence.

My Lords,

‘ I am now coming to the great and only Foundation remaining to support this Bill: If *Neynoe*’s Hearsay is not to be believed, which is the Proof that was offered to shew that Mr *Kelly* was the Bishop’s Secretary, and used to write for him, and particularly, that the Bishop directed three Letters, which were wrote in *Kelly*’s Hand, and transmitted to *France* under Cover to Monsieur *Gordon le Pile*.

‘ Every Body must agree, that unless the dictating of these Letters be clearly prov’d, the Bishop ought to be acquitted; and when, hereafter, this great Affair comes to be canvass’d by Posterity, it will stand or fall as this Fact shall be strongly made appear.

‘ They first read *Plunket*’s Cypher, and Mr *Van Radike* attests it to be his Hand-writing.

‘ When this Piece of Evidence was offer’d, People were at a Loss to know what they intended to make of it, and little thought, that they should be drove to make Use of *Jackson*, standing for the Pretender in that Cypher, to shew that the Letter directed to *Jackson* (one of the three before mentioned affirmed to be dictated by the Bishop of *Rockester* to Mr *Kelly*) was to the Pretender; I shall take Notice of this extraordinary Proceeding when I come to consider those Letters. I shall only say now, that were Mr *Plunket*’s Correspondence to be regarded, the Plot is of a very deep Nature, for he has had the Impudence to insinuate the most ridiculous Aspersions against the greatest Men amongst us.

‘ Three

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‘ Three of his Letters were read out of Cypher, in two of which Mr *Johnson* is named, that is Mr *Kelly*, but neither Mr *Kelly*, or the Bishop of *Rocheſter* are allowed Places in his Cypher, and conſequently were not in the Aſſociation with him. *Johnson* is only ſpoke of by *Plunket*, when he is mentioning Domeſtick News, and in no other Manner than might be in every News-Letter that went by the General Poſt.

My Lords,

‘ In order to ſhew that the three Letters ſent under Cover to Mr *Gordon le Fils*, were Mr *Kelly*’s Hand-writing, which they very juſtly thought was neceſſary to be made appear before they proved that the Biſhop was concerned in them, they produced a Letter of the 20th of *Auguſt*, which a Clerk of the Poſt-Office ſwears was ſtopt at the General Poſt-Office.

‘ To convince us this Letter is Mr *Kelly*’s Writing, *Hutchins* the Meſſenger ſays, to the beſt of his Knowledge, it is Mr *Kelly*’s Hand; and at the ſame Time owns, he never ſaw him write till after his Commitment, and then he ſtood by him while he wrote two Letters, one to Lord *Townſend*, the other to Mr *Deſaſaye*; thoſe Letters were produced at the Bar, and therefore every Lord in the Houſe is as good a Judge of the Similitude as the Meſſenger, who has lately been reſtored into Favour, on what Account I cannot tell.

‘ If Mr *Kelly*, during his Confinement, counterſeited and diſguiſed his Hand, then the Meſſenger’s Evidence can’t be of any Weight; and if he wrote as uſual, then every Perſon is equally capable of framing an Opinion of it who ſees the three Letters.

‘ The next Witneſs is *Malone*, who ſwears, he has ſeen him direct Letters, but can’t tell how long ſince he ſaw him write, or how often.

‘ The Perſons who contradict this Evidence are ſo poſitive, ſo clear, and ſo concurring in their Teſtimony, that no Doubt can riſe upon it.

‘ Mr. *Bingley*, when he was ſhewn this Letter, ſwears it is not like his Hand-writing.

‘ Mr. *Brown*, a Peruke-Maker, well verſ’d and acquainted with his Writing, when he was ſhewn the Letter of the 20th of *Auguſt*, and the Date of it hid, by the Counſel for the Bill (ſo that he could not know what Paper it was before him) ſwears it is not his Hand-writing: When the Letter to *Deſaſaye* was produced, he declared, That was his Hand-writing: When another Paper was ſhewn, (I think, it was the Marriage Articles) he ſaid, That was more like his Hand-writing than that of the 20th of *Auguſt*, but he did not believe it was wrote by him; and when they queſtion’d him upon the Letter

Letter to Lord *Townshend*, he swore it was Mr. *Kelly's* Hand- writing. Anno 9. Geo. 1. 1723.

‘ Mr. *Pickering*, who had Occasion to know Mr. *Kelly's* Hand, having lent him some Money, and received several Notes and Letters from him during that Transaction, does agree with Mr. *Brown* in every Particular and most minute Circumstance ; which is a clear and evident Proof, that this Letter of the 20th of *August* was not wrote by Mr. *Kelly*.

‘ The Difference, which they tell your Lordships, they observe between the Cut of the Letters in that of the 20th of *August* and the others, is, That one is longer and straiter, the other wider and shorter, which is obvious to any Body that will look on both, and is a Confirmation of their Veracity.

‘ The Prosecutors of the Plot might have prov'd this better, and not have been driven to the Testimony of a Messenger to support this great Foundation of their Charge. It is notorious what Search they have made for Evidence of all Kinds ; and as Mr. *Kelly* was educated in a College, they might easily have found credible Witnesses to that Point, if those Letters had been wrote by him.

‘ In the Case of Similitude of Hands, when it has been the most clearly and positively proved, as on the Tryal of Colonel *Sidney*, it has been esteemed to be cruel, that a Man should be convicted on such Kind of Evidence ; and the Attainder of that unfortunate Gentleman was reversed for that Reason.

‘ In *Sidney's* Tryal, his Bankers swore, ‘ They used to pay Bills drawn by him in the Hand-writing they were shewn, and no Persons could contradict them ; and yet the Sentence against him was a great Blemish to that Reign. The Great Lord Chief Justice *Holt*, in the Case of *Crosby*, refus'd to admit it ; and the Lord Chief Baron *Bury*, on *Francia's* Tryal, follow'd that Example.

‘ At present, give me Leave to say, There is no Evidence that it is Mr. *Kelly's* Hand, and there is positive Proof that it is not. — Therefore, we who live under so equitable, just, and happy a Government, can never convict a Man, in these Days of Liberty, on such insufficient Conjectures.

‘ They next produced the three Letters, which, they would insinuate, were wrote by *Kelly*, and dictated by the Bishop, which were mention'd by me before, and which were sworn by the Clerks of the Post-Office, to have been stopt going to *France*.

‘ The Bishop desired to examine them relating to these Letters being detain'd, and would fain have known who took them out of the Mail ; this he thought was proper for him to demand, since he seem'd to insinuate, That he question'd their ever having been in the Post-Office. But your Lord-

Anno 9. Geo. I. ships would not suffer any Inquiry to be made on this Head, and voted it inconsistent with the publick Safety, and unnecessary for the Defence of the Prisoner, to permit any further Questions to be asked in relation to this important Affair. [See p. 307.]

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‘ These honest Gentlemen, the Clerks of the Post-Office, have deposed further, ‘ That the Papers produced, are true Copies of the Originals detain’d by them ; though at the same Time, they confess, they never examin’d them after they had copied them.

‘ They positively swore further, ‘ That the Originals were of the same Hand with the Letter of the 20th of *August*, tho’ they affirm this barely upon Memory, never having mark’d any Letter in order to know it again ; and one of them declared upon Oath, ‘ That he did not believe there could be such an Imitation of *Kelly’s* Hand as could deceive him, though the whole House agrees, that Hands may be counterfeited so as to deceive the Men that wrote them.

‘ They own, they never compared two Original Letters between the 20th of *August* and 20th of *April*, though they might have stopt a Letter one Post, without Prejudice to the Government, in Order to be more certain in their Evidence.

‘ Thus, my Lords, should this Bill pass, this great Man must fall by the Dependence this House must have on the Memory of these Clerks.

‘ Mr. *Lewis*, [See p. 311.] who has long serv’d in the Secretary’s Office, tells us, ‘ That frequently Letters and Seals used to be counterfeited ; and, in a more particular Manner, by one *Bracket*, who excelled so much in this Art, that he has cheated many Persons, and has so far deceived them, that they have not known his Copy from their own Originals.

‘ When these Letters, thus attested, came to be read, they are in Cypher, so that it must again depend on the Honesty of a Decypherer, before they can possibly be made treasonable.

‘ Mr. *Willes* declares, ‘ They were truly decyphered according to the best of his Judgment and Skill ; and more particularly, that the Number 1338, which is subscribed to the third Letter directed to *Jackson*, stands for the Letter *R*. But when some Lords asked him a Question, which perhaps had he answered, might have proved him to be under a Mistake ; he refuses to give an Answer, either in the Affirmative or Negative, for Fear of revealing his Art. Your Lordships thought proper to prevent any further cross Examination of this Gentleman, by a Resolution. [See p. 306.]

‘ Mr. *Willes* says, ‘ He shew’d these Letters decyphered to my Lord *Townshend* before he communicated them to Mr.

Corbire,

Corbierre, who is a Clerk in the Secretaries-Office, and then Anno 9. Geo. 1. says, ' That Mr. *Corbierre* and he agreed.

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' Before these Letters can yet prejudice the Bishop, the Cant Names in them must be explain'd according to the Key, which the Prosecutors of the Plot have made; and in Order to it, we must believe, that *Jackson* stands for the *Pretender*, because Mr. *Plunket* gave him that Title in his Cypher. Can there be a greater Absurdity than to imagine a Person of the Bishop of *Rocheſter's* Capacity, should borrow a Name of that Consequence, from so insignificant a Wretch as *Plunket*, who it does not appear ever saw him?

' Indeed, the Counsel for the Bill did not read these Letters against the Bishop, since they had no Proof of his dictating of them, and they were only read on Account of the general Conspiracy.

' I must observe, it was a great Artifice of these learned Gentlemen, Whenever there was a Piece of Evidence to which the Bishop objected, they constantly pretended they produc'd it to the Plot in general; for they knew it could not be admitted against the Reverend Prelate; but yet when they came to sum up, they applied them to this particular Case, which is not agreeable to that Candour that is necessary on such Occasions.

' If your Lordships should be of Opinion, that *Kelly* wrote them; that they were stopp'd at the Post-Office; that they were duly copy'd; that they were truly decyphered, and the Cant Names explain'd, yet still this cannot affect the Bishop, unless it be fix'd upon him that he dictated them: Two of them were sign'd *Jones* and *Illington*, and to induce your Lordships to believe the Bishop was guilty, as they affirm'd, they endeavour to prove those Names must denote him; and in order to it, they read some Letters, affirm'd in the same Manner (as before mention'd) by the Clerks of the Post-Office, to be his Hand-writing; but first they read a Cypher taken upon Mr. *Dennis Kelly*, and sworn by the Messenger *Hutchins* to be wrote by *George Kelly*.

' I can observe Nothing upon this Cypher, but that the Bishop of *Rocheſter* is not mention'd in it, which seems very extraordinary, and is not a Proof of the Reverend Prelate's being engaged in a Conspiracy.

' The Letters they read of Mr. *Kelly* are of no Moment, and are only calculated to fix the Names of *Jones* and *Illington* upon the Bishop.

' They give an Account of his Lady's Death, the Bishop's own Illness, his going to and from *Bromley*; and in some of them, the Dog *Harlequin* is mentioned.

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Anno 9. Geo. I.

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‘ It seems repugnant to Reason, that in a treasonable Correspondence of this Importance, a Gentleman should venture his Life to give an Account of the State of one Person’s private Affair, and entertain his Friends Abroad with no other Business in such a Tract of Time.

‘ In the Letters directed to Mr. *Andrews* at the *Dog and Duck*, which are proved to have been received by Mr. *Kelly*, *Jones* and *Illington* are not named; and those in which we find them, were such as pass’d through the Post-Office, and were attested like those under Cover to *Gordon le Fils*.

‘ It is not likely, that in a Transaction of so secret a Nature, Mr. *Kelly* should take such Pains to give such a Description as might give the least Room for a Suspicion that the Bishop was concerned; much less to have mentioned so many Particulars, as it may be suggested he has done, if there could be any Possibility of wresting the Meaning of *Jones* and *Illington*, and interpreting of them to mean the Bishop.

‘ *William Wood*, the Bishop’s Coachman, is brought to prove the particular Times of the Bishop’s being in or out of Town, in order to shew, that they agree with the Times mentioned of *Jones* and *Illington* in the intercepted Correspondence; and he refreshes his Memory by a Book of *Memorandums*, which might have been destroyed, if it had been apprehended by the Bishop’s Friends, that such Evidence could affect him.

‘ What they next attempt, was to shew, ‘ That the Dog brought over by Mr. *Kelly* from *France*, and which Mrs. *Barnes* swears, ‘ That he once told her was for the Bishop of *Rocheſter*, was a strong Circumstance to fix the Name of *Illington* on the Bishop.

My Lords,

‘ Mrs. *Barnes*, who is under the Custody of a Messenger, is the only Witness to this Point, and what she says, is only Hearſay from *Kelly*: She owns that *Kelly* never told her so but once, and that was when she thought to have kept it for herself; and, indeed, it might be barely an Excuse to prevent his parting with it, for he had promised to bring her such a Present before he went to *France*.

‘ She owns, that to her Knowledge, the Bishop never saw the Dog, nor sent any Message about it, which seems to be very extraordinary, that if this Present was of such great Consequence, he should not have had Curiosity enough, at least, to see it: An Affidavit was read from *Birmingham*, a Surgeon in *Paris*, which says, ‘ That he gave this Dog to Mr *Kelly*, for Mrs. *Barnes*.

‘ Before I leave this Circumstance of the Dog, it is proper

per to observe another great Improbability, which is, in a Letter wrote a few Days after the Death of the Bishop's Lady, it is said, ' Mrs *Illington* was in great Tribulation for the Loss of poor *Harlequin*; and can it be supposed, that at a Time when the Bishop was in Affliction for the Death of his Wife, he should indecently discover so much Grief for such a Trifle ?

' I think this is sufficient to convince any Person whatsoever, that this Correspondence is of a very extraordinary Nature.

' Mrs. *Barnes* has told your Lordships, ' That Mr. *Kelly* came from *France* the 11th of *April*.

My Lords,

' I am now come to the only Piece of Evidence that seems particularly levelled at the Bishop : Which is, The Proof that has been given of the Dictating those Letters ; and unless this be clearly and plainly made appear, I cannot conceive that any Thing can be laid to this Prelate's Charge.

' Unless it is evident, that the Bishop did dictate as alledged, I cannot think any of your Lordships can vote him guilty according to the Rules of Justice ; for no Man is safe either in his Life, Liberty or Fortune, if he may be deprived of either, on Account of a Correspondence, in which it does not appear he was concerned. Though your Lordships should so far credit the precarious Evidence at your Bar, as to believe that *Jones* and *Illington* stood for the Bishop of *Rochester* ; yet, unless it is plain, that it was with his Privity, it is certainly impossible this Bill should pass ; and if it should, it will hereafter be in the Power of any two Men, one at Home, and one Abroad, to ruin the most innocent Person, by entering, without his Knowledge, into a Correspondence of this Nature.

' If the being named in treasonable Letters, be a Crime, though it does not appear it was with the Privity of such Persons, I will submit to your Lordships, how far Men of the greatest Zeal to the present Establishment, are to be affected by Mr. *Plunket's* Insinuations.

' No Man ought to suffer for the Suggestions of another Person, unless it appears he has given great Foundation for them. And in this Case, would it not be most extraordinary and most unjust, to punish this Reverend Prelate, for a Crime which there is no Proof he ever committed ? I mean, the Dictating of these Letters : And if on the other Hand, the unfortunate Circumstances of his Affairs has furnished him with Means of shewing, beyond Contradiction, that he could not be concern'd in the Letters of the 20th of *April* ; that for a considerable Time before, he could not see Mr. *Kelly* ;

Anno 9. Geo. I. and that there never was an Intimacy between them ; then,
 1723. My Lords, I hope, every Man who gives his Vote for the
 Rejecting this Bill, has the strongest Evidence of his Side to
 support his Opinion ; and need not be afraid or ashamed to
 own it here, or any where else.

‘ This Part of the Evidence being of great Consequence, I must beg your Lordships Attention, whilst I recapitulate the Heads of it as clearly and distinctly as possibly I can.

‘ The first Witness they call’d was *Flower*, a Chairman, who swears, ‘ That he carried *Kelly* twice or thrice to the Deanry, but that the Bishop was never at Home, and consequently did not see him. His Partner swore, ‘ He had carried him with *Flower* one of those Times.

‘ The next Person produced was a Porter, one *Vanlear*, who deposed, ‘ That he went about *Christmas* was Twelve-Months twice with Messages from *Kelly* to the Bishop ; the last of which Times he carried some Beaver Stockings ; that the Bishop sent for him up Stairs, gave his Service to Mr *Johnson*, and thank’d him for his Present.

‘ Mrs *Kilburne*, at whose House Mr *Kelly* lodged, says, ‘ That once a Servant came from the Bishop, to know how Mr *Johnson* did, and was sorry he could not have his Company to Dinner.

‘ *William Wood*, the Bishop’s Coachman, says, ‘ He once stopped in *Bury-Street*, but does not know for what, and that the Bishop sent a Servant somewhere, who presently returned. And,

‘ *Lloyd*, who keeps the *Star and Garter* in *Palace-Yard*, has told us, ‘ That *Neynoe* once came to his House, and told him, he staid for an ingenious Gentleman, who was gone to the Bishop of *Recheſter*’s House.

‘ This, my Lords, is all the Proof they offered of this Intimacy, from which they would infer, That the Bishop dictated these Letters, and is consequently guilty of the Crimes laid to his Charge.

‘ If your Lordships consider what was produced on the other Side, I am sure you must agree there is no Foundation for this Assertion,

‘ Mrs *Kilburne* denies, to the best of her Knowledge, that the Bishop ever came to her House, or that his Coach ever stopped there, or ever was sent for *Kelly*.

‘ That *Kelly* did not go out of Town from the Time he came from *France*, ’till he was taken up, the 19th of *May*, and never lay out of her House one Night.

‘ This, my Lords, was confirmed by her Maid *Aune Ellis*.

‘ Mr

' Mrs Barnes says, ' She never heard of any Message from the Bishop to *Kelly*, nor ever had any Conversation with him about the Bishop. Anno 9. Geo. I.
1723.

' *William Wood*, the Coachman, who lived with the Bishop Four Years, has declared, ' That the Bishop of *Rocheſter* never ſent him with his Coach to *Bury-Street* to fetch any Perſon from thence; that there was no Stranger at *Bromley* for a Fortnight before his Lady died, which was the 26th of *April*; that no Body could come in a Coach, or on Horſeback, but he muſt know it; that he never ſaw ſuch a Perſon as 'Mr *Kelly*, 'till he was ſhew'd him at the Tower; and that the Biſhop went ill of the Gout to *Bromley* the 12th of *April*, and did not return to *London* 'till the 7th of *May*.

' *Malone*, Mrs Barnes's Servant, ſays, ' That ſhe never ſaw the Biſhop, or any of his Servants, with Mr *Kelly*.

' *Thomas Grant*, who has been the Biſhop's Servant nine Years, has declared, ' That the Biſhop went to *Bromley* the 12th of *April* very ill of the Gout, and that no Stranger could come to him from the Time he went to *Bromley* 'till after his Wife's Death; that one or other of the Servants always ſat up with him; and that no Perſon could viſit him, but they muſt know it, for they were either in the ſame Room, or the next Room to him; and that no Stranger, except Dr *Aldridge* and the Apothecary, came near him. *Grant* ſays, ' That he was forced to go to Town to attend at the *Weſtmiſter* Election of Scholars on the 21ſt of *April*, but left *Beauchamp* there, who came down for that Purpoſe on the 18th.

' *Beauchamp* and *Steen*, who were the two Servants that attended with *Grant*, ſwear the ſame Thing.

' *Suſannah Harvey*, *Sarah Jones*, *Thomas Farnden*, *Elizabeth Higginſon*, and all the Servants agree, that they never heard of any Perſon by the Name of *Kelly* or *Johnſon*'s being with the Biſhop. And,

' Mrs *Ingliſh*, who took the Names of the Biſhop's Viſitors for many Years, does not remember that ſhe ever heard of ſuch a Perſon as *Kelly* or *Johnſon*. And I doubt not but that every Lord muſt allow, that it is not poſſible to have a more clear, a more ſtrong, or legal Proof to a Negative than this is.

' I muſt obſerve to your Lordſhips, that moſt of theſe Servants have been in ſtrict Cuſtody, and ſeverely uſed, particularly *Farnden*, and yet your Lordſhips ſee how unanimous they are in their Evidence; and their Teſtimony is ſo poſitive, that I cannot conceive any Perſon can ſuggeſt there was the leaſt Intimacy between this Reverend Prelate and Mr *Kelly*;

Anno 9. Geo. I. *Kelly*; and much less, that he could be with him to write the Letters that are dated the 20th of *April*.
 1723.

‘ *Mr Reeves* did, indeed, so far agree, as to be of Opinion, that they might have been wrote the 11th of *April*, which was the Day *Kelly* came from *France*: But, my Lords, *Mrs Barnes* has deposed, he went to Bed the Minute he came home, and lay there for a considerable Time; besides, ’tis improbable, that Letters wrote the 11th, should not be sent till the 19th. But if any farther Argument was necessary to confute this absurd Supposition, the Earl of *Sunderland*’s Death is mentioned in the Letter to *Chivers*, and that Noble Lord died the 19th, at which Time it has been proved, *Mr Kelly* was not with the Bishop.

‘ The Bishop of *St Asaph* did, [See p. 337.] at first, peremptorily contradict one Part of *Mr Grant*’s Evidence, by saying, ‘ He had received a Letter from the Bishop of *Rocheſter* at the Time which *Grant* has sworn he was so ill of the Gout that he could not write.

‘ His Lordship positively affirmed, ‘ That he received this Letter on *Saturday* the 21st of *April* in the Morning, and saw *Grant* in *London* between Twelve and Two: But when it was proved that *Grant* did not leave *Bremley* till the Evening of that Day, and that another Person officiated for him as Butler in the Deanry, by Reason of his Absence, then the Bishop seem’d to think himself under a Mistake, and allowed it might have been some Time before.

‘ His Lordship own’d he never receiv’d a Letter from the Bishop of *Rocheſter* before nor since, and therefore was a Stranger to his Hand.

‘ I could have wished this Reverend Prelate had recollected himself more fully, before he had given his Testimony in a Matter of this great Importance to one of his Brethren.

‘ There was another Witness examined, which was *Crofton* the Shoemaker, to prove that *Talbot* (who was said to have received the three Letters directed to *Gordon le Fils*) was at that Time in *London*, when he was supposed to have been in *Bologn*. *Crofton* swears he saw him in Town the 29th of *April*, and proved it by his Book.

‘ There was another Person call’d, whose Name was *Donner*, that deposed, ‘ *Gordon* own’d to him the receiving of this Packet; but an Affidavit was produced from *Gordon*, in which he denies it. *Donner*’s Evidence is only Hearsay, the other is positive.

My Lords,

‘ The Counsel for the Bill produced some Papers which were taken in the Bishop’s Custody when he was apprehended,

ed, and endeavour'd to draw very ill-natur'd and forc'd Anno 9. Geo. I.
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Constructions from them.

' The First was a Letter from the Dutchess of *Ormond*, in which she acquaints him, ' That she had something to send him, which she could not trust to a better Hand,' or Words to that Effect. And this they would pretend to insinuate were some treasonable Papers.

' I appeal to all Mankind, whether it is not very extraordinary to suppose, that the Bishop should be presumed to convey a traiterous Correspondence thro' that Channel. Every Body knows the Friendship which was between the Reverend Prelate and that Family, and it is not surprizing that this unfortunate Lady should think him a proper Person to consult, and intrust with her own Affairs. Therefore I cannot think that these general Expressions can at all affect him.

' The next they read is a Paper found, or pretended to be found, at the Deanry, subscribed to *Dubois*, but without Date ; in this the Person who writes it, says, ' He received a Letter by Mr *Johnson*, to which he return'd an Answer in his Hand.

' The Secret Committee at first apprehended, that this was received by the Bishop, and thus it pass'd, 'till upon seizing a Letter wrote in the Tower by his Lordship, they found a Similitude in the Seals, which immediately enlightned them, and then it was presently said to have been wrote by the Bishop.

' They then wanted to fix this to be the Bishop's own Hand-writing, and they could find no other Way of doing it, but pretending there was a Similitude between the E's in this Letter, and those which the Bishop generally used. I believe it is the first Time that ever such an Argument was brought to prove that the whole Letter has been wrote by a Person ; much less was it ever pretended to be offered to a Court of Justice against any Prisoner whatsoever ; but I believe there is no Man acquainted with the Bishop's Hand, but sees it is not wrote by him.

' They would also affirm, that when in this Letter the Bishop is supposed to say, ' That he return'd an Answer in Mr *Johnson*'s Hand, it must be understood to be his Hand-writing ; which, I must confess, does not at all appear to be a necessary Conclusion ; for he might deliver his Answer into Mr *Johnson*'s Hand, which, I think, is more natural to suppose than the other.

' Your Lordships must judge, how improbable it is, that the Bishop should keep such a Letter by him, which he wrote himself ;

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1723.

himself; or that, when such Care is taken as the Prosecutors of the Plot themselves say, for preventing any Person's discovering the Intimacy between Mr *Kelly* and him, such a Secret should be trusted in Writing, and even without a Cypher. The two Seals which gave this Turn, are *Cicero's* Heads, which are very common, and are to be found every where. They are, one broke, the other whole, which must make it very difficult to judge of them; and it is allowed, that, at best, it is but precarious Evidence.

' If Mr *Neynos* speaks Truth, when he said, ' That the Bishop had Notice of the Storm that threatned him, I am certain, that this Paper, if it could have been apprehended of Consequence, would have been destroyed; but, I believe, it was impossible for him, or any Body else, to think it should meet with such an Explanation.

' The next Letter they produced, which they seem'd to think material, was that which was seiz'd on his Servant going to Mr *Morice*: In this he says, ' That the Evidence of *Plunket*, and those People, could not affect him; but as he does not mention Mr *Kelly*, they would have it presumed; that this is a Proof that *Kelly* could have said something of him; but I think, this must appear to be a very ill-natur'd Assertion.

' Your Lordships will consider, he was then writing to his Son-in-Law, and therefore no great Accuracy was necessary.

' In another Place he says, ' That if they impeached him, he should remain in Prison for some Time; and this they would decypher to be an Implication of his Guilt. But, in my poor Opinion, it is the Reverse; he seems to say, ' That if the Commons should be induced to send up an Impeachment against him, he was so satisfied of his own Innocence, and your Lordships Justice, that he thought the Confinement 'till his Tryal would be the only Misfortune that could attend him. The Example of the Earl of *Oxford* was recent in his Memory, and might justly create in him a Fear of undergoing a long Imprisonment.

' It is objected, That he, in this Letter makes no Protestations of his Innocence: But if you will consider he writes to Mr *Morice*, I believe every Body will agree, that such Declarations were not necessary.

' Mr *Laver's* Attainder was read, but it does not appear, that the Bishop had any Correspondence with him, therefore I can't conceive why we were troubled with it.

My Lords,

' I have now gone through the whole Evidence that is brought

brought to justify this extraordinary Proceeding, and must Anno 9. Geo. I.
observe the Steps that have been taken to procure all the possible Means to work the Destruction of this great Man. 1723.

‘ You have seen his very Servants confin’d, who, it does not appear, were guilty of the least Glimpse of Treason.

‘ *Lawson*, a Baker of *Bromley*, who appeared at your Bar, has been employed to examine the Persons in the Bishop’s Neighbourhood, in order to find the least Particular that could amount to the Shadow of a Proof, and went so far as to offer *Wood* the Coachman the Wages that were due to him, if he would have gone the Lengths that were required.

‘ Mr *Bingley* told us in the Case of *Kelly*, (and as it has not been disproved, it is to be taken for granted) that a Warrant was shewn by the Messenger, sign’d by a Secretary of State, to carry him to *Newgate*, which he was told was unavoidable, unless he would own the Letter of the 20th of *August* to be Mr *Kelly*’s Hand-writing; but it appeared the next Day to be nothing but in order to terrify him.

‘ Mr *Kelly* himself has told your Lordships, ‘ That Mr *Deslafsaye* offered him his own Terms, if he would have turn’d Evidence [See p. 300.] And this was done to destroy the Bishop of *Rocheſter*; or, to speak in the Language mentioned at your Bar, To pull down the Pride of this haughty Prelate.

‘ Your Lordships may remember, that Mr *Wearg* objects to the Bishop’s Servants, because two of them had Employments, as appears by his Lordship’s own Letter; but, my Lords, when they were examined, they acquainted the House, that it was upon reading of the *Report* that they recollected the Bishop’s Circumstances before the Death of his Wife: And if every Man, who has a Place under the Bishop, is not to be esteemed a free Agent when he is upon Oath, I hope it will be allowed on the other Hand, that those who have Employments under the Government, ought not to be admitted; then all the Witnesses that have been brought to support the Bill, from the Decypherer to the Messenger, will be discredited, and the whole Prosecution must fall to the Ground.

My Lords,

‘ It has been a Hardship that has attended the Bishop, that he has been forced to prove a Negative; and the Difficulty has been the stronger upon him, that your Lordships have not permitted Mr *Kelly* to be examined, as was moved by a learned Lord * in my Eye; and if the Gentleman had sworn what he so solemnly affirmed at your Bar relating to

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* *Ld Lechmere.* See p. 333.

Anno 9. Geo. I. this Affair, I can't conceive we could have had the least Debate.

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‘ The Noble Lords who appear the most zealous in this Prosecution, were those who opposed the Examination of Mr *Kelly*, which, in my poor Opinion, is a strong Argument, that if he had been brought before us, he would have persisted in his Declarations of the Bishop's Innocence.

‘ The Reverend Prelate has desired of any Lord in the Administration, and even the honourable Person who appeared at your Bar, to declare, whether any one single Person had charged him (on their own Knowledge) of being guilty of any treasonable Practice: And it has appeared to the contrary; therefore this whole Charge is founded upon the slight Circumstances and improbable *Inuendo's* before mentioned.

‘ Another Objection which was raised, is, ‘ That Mr *Kelly* made Resistance, when he was seiz'd, till he had burnt some of his Papers; but my Lords, I don't see any Reason to lay this to the Charge of the Bishop.

‘ *Kelly* is to answer for his own Actions, and is unfortunately like to suffer for them; a Person of his Age might have many Letters in his Custody, which he did not care should be seen, and yet of a different Nature from a traitorous Correspondence.

‘ After this Evidence is considered, I cannot think your Lordships will establish such a Precedent, which hereafter may be employed to ruin the greatest amongst you; and if ever hereafter Pains and Penalties are unjustly inflicted on any Person, Posterity will derive the Original of such Bills from the Proceedings of this Parliament; and what Opinion will be framed of us, should this be passed into a Law, I submit to every impartial Person.

‘ It must be left to your Lordships Consideration, which will be of most fatal Consequence to the Publick, the leaving this Precedent (of condemning on such Kind of Evidence) like a Sword which your Enemies may take up when they please, or the banishing the Bishop of *Rockefter*, in the Evening of his Days, who alone could do, in his single Person, no Prejudice to the Constitution: If he were inclined to overturn it, as his Enemies suggest, he is in a better Situation Abroad than at Home, to execute that Design, and direct the Counsels of the Disaffected. The Ruin of one Man will not heal the Wound that the passing of this Bill seems to make in the Government of this Kingdom.

‘ It has been said in the Debate, that the Bishop ought to have made Protestations of his Zeal for his Majesty and his

his Family ; but, I think, he took the most ready Way of Anno 9. Geo I.
performing his Duty, when he shewed himself innovent of 1723.
the Crimes laid to his Charge.

‘ If he had made Use of any Expressions, which those Lords blame him for omitting, the same good Nature would have call’d it Hypocrisy ; and those who are displeas’d with his Silence, would have accus’d him of Insincerity.

My Lords,

‘ This Bill seems as irregular in the Punishments it inflicts, as it is in its Foundation, and carries with it an unnatural Degree of Hardship.

‘ It is Felony for his Children to correspond with him : And in this Circumstance, it is different from the only Bill that carries with it the least Resemblance of this ; I mean, That for the Banishment of the Earl of *Clarendon*.

‘ The Earl had shewn from the Prosecution, and retired beyond Sea. The Charges against him were, principally,

‘ For advising a Standing Army ; and another Article exhibited was, ‘ That he had advised and procured divers of his Majesty’s Subjects to be imprison’d against Law, in remote Islands, Garrisons, and other Places, thereby to prevent them of the Benefit of the Law, and to produce Precedents for the Imprisoning any other of his Majesty’s Subjects in like Manner.’

‘ The 7th Article against him, was, ‘ That he had, in a short Time, gain’d to himself a greater Estate than can be imagin’d to be gain’d lawfully in so short a Time ; and contrary to his Oath, he hath procured several Grants under the Great Seal from his Majesty, for himself, and his Relations, of several of his Majesty’s Lands, Hereditaments and Leases, to the Disprofit of his Majesty.’

‘ There need not have been any Witnesses of these Crimes, for they were apparent ; and every Body knew that he was Prime Minister ; yet Sir *Francis Goodyere*, upon that Debate in the House of Commons, declared the Sentiments which I express’d at the Beginning, ‘ That he was not against proceeding, but unsatisfy’d to do it without Witness, it being like swearing *in verba Magistri*.’

‘ Another great Man *, upon the same Question, and an Ancestor to a Noble Lord near me, said ; ‘ That if the Parliament set aside Law in this Case, we should be happy to see Law declaring the Power of Parliaments.’

‘ The Punishment for corresponding with the Earl, was High-Treason, and then two positive Witnesses were necessary to convict ; but, in this Case, one corrupt, terrified, and

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* Sir Heneage Finch.

Anno 9. Geo. I. perjured Person, may take away the Life of the most innocent Man.

1723.

‘ There is another great Misfortune which this Bill brings upon the Bishop, which is, That he is incapable of receiving his Majesty’s Pardon : This, my Lords, is an Entrenchment upon the Prerogative : And what must make it the more severe in this Case, is, That his Majesty’s Inclinations to Mercy (which are the distinguishing Characters of his Life) are stop’d by this Law, which the unfortunate Prelate might have Hopes of receiving, when he had merited it, by a dutiful Behaviour to the Country that had sent him to wander Abroad in Exile, and by his future Conduct have confirm’d, if possible, the Evidence he has given of his Innocence.

My Lords,

‘ In the Case of the Earl of *Danby*, your Lordships have declared, That his Banishment should be no Precedent, nor draw into Example for the Time to come, and have so enter’d it in your Journals.

‘ It has been proved that this Reverend Prelate was at the Time that he was suspected to be acting Treason, engaged in Studies of the most high Nature, which is a Circumstance that ought to have some Weight.

‘ If this Bill pass into a Law, such Evidence is establish’d, and such a Method of Proceeding introduc’d, as must effectually render all that is dear to us precarious ; and if ever, hereafter, we should see a wicked Administration, supported by a corrupt Majority in Parliament, this Step, taken in these Times of Liberty, will be sufficient Precedent to give a Colour of Justice to the Actions of those who should be wanton in Tyranny.

‘ The Reverend Prelate, who spoke before me, mentions some Cases relating to Bills of Attainder, which, in my poor Opinion, differ very much from our present Question.

‘ The Attainder of Sir *John Fenwick*, was only to supply the Want of a Witness, who had deposed against him upon Oath before the Grand Jury, and who was spirited away by the Prisoner’s Friends : But at present, your Lordships are to supply the Defect of Evidence, by condemning on improbable Conjecture. There was a noble Lord in this House the other Day, I don’t see him now, who made the greatest Figure in Opposition to that Bill *, I wish we could have his Assistance on this Occasion.

My Lords,

‘ Since that Reverend Prelate has quoted some Cases, he will

* Lord Harcourt. See Chandler’s History of the Commons, Anno 1696. 8. Will. III.

will permit me to remind him what has been formerly said *Anno 9. Geo. I.*
 upon Acts of Attainder ; That such Bills, like *Siffphat's* Stone, 1723.
 have frequently roll'd back upon those that were the chief
 Promoters of them.

‘ This prudential Argument should restrain us from being too forward with them at this Time of Day.

‘ The Act for the Attainder of the Earl of *March*, pass'd, because he had been instrumental in procuring the Attainder of another Lord, under Pretence of a Letter, which the Record says, was no Evidence.

‘ The Lord *Cromwell* is another known Instance of this Observation ; He was the first who advis'd this violent Proceeding in *Henry* the 8th's Time ; and it is remarkable, that the Advice he gave to the Ruin of others, prov'd, not long after, fatal to himself.

‘ I have now given your Lordships the Reasons why I am against the Bill. I fear I have tired your Patience, and shall therefore conclude with the Words of the great Man I before mention'd ; I mean, Sir *Heneage Finch*, in the Case of the Earl of *Clarendon*.—— ‘ We have an Accusation upon ‘ *Hearsay*, and if it is not made good, the blackest Scandal ‘ *Hell* can invent, lies at our Doors.’

His Grace was strongly supported by the Lord *Bathurst*, who took Notice of the ungracious Distinctions that were fix'd on the Members of that Assembly, who differ'd in Opinion from those who happen'd to have the Majority : That for his Part, as he had nothing in View but Truth and Justice, the Good of his Country, the Honour of that House, and the Discharge of his own Conscience, he would freely speak his Thoughts, notwithstanding all Discouragements : That he would not complain of the sinister Arts that had been used of late to render some Persons obnoxious, and under Pretence of their being so, to open their Letters about their minutest domestick Affairs ; for these small Grievances he could easily bear ; but when he saw Things go so far, as to condemn a Person of the highest Dignity in the Church, in such an unprecedented Manner, and without any legal Evidence, he thought it his Duty to oppose a Proceeding so unjust and unwarrantable in itself, and so dangerous and dismal in its Consequences. To this Purpose, he begg'd Leave to tell their Lordships a Story he had from several Officers of undoubted Credit, that serv'd in *Flanders* in the late War. ‘ A French Man, it seems, had ‘ invented a Machine, which would not only kill more Men ‘ at once, than any yet in use, but also disable for ever any ‘ Man that should be wounded by it. Big with Hopes of

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a great Reward, he apply'd to one of the Ministers, who laid his Project before the late *French* King; but that Monarch, considering that so destructive an Engine might soon be turn'd against his own Men, did not think proper to encourage it, whereupon the Inventer came over into *England*, and offer'd his Service to some of our Generals, who likewise rejected the Proposal with Indignation.' The Use and Application of this Story, added his Lordship, is very obvious: For if this Way of Proceeding be admitted, it will certainly prove a very dangerous Engine; no Man's Life, Liberty, or Property will be safe; and if those, who were in the Administration some Years ago, and who had as great a Share in the Affections of the People, as any that came after them, had made use of such a Political Machine, some of those noble Persons, who now appear so zealous Promoters of this Bill, would not be in a Capacity to serve his Majesty at this Time. His Lordship added, 'That if such extraordinary Proceedings went on, he saw nothing remaining for him, and others to do, but to retire to their Country Houses, and there, if possible, quietly enjoy their Estates, within their own Families, since the least Correspondence, the least intercepted Letter, might be made criminal. To this Purpose his Lordship quoted a Passage out of Cardinal *de Retz's* Memoirs, relating to that wicked Politician, Cardinal *Mazarin*, who boasted, 'That if he had but two Lines of any Man's Writing, with a few Circumstances attested by Witnesses, he could cut off his Head when he pleased.' His Lordship also shrewdly animadverted on the Majority of the venerable Bench, towards which turning himself, he said, 'He could hardly account for the inveterate Hatred and Malice, some Persons bore the learned and ingenious Bishop of *Rocheſter*, unless it was that they were intoxicated with the Infatuation of some of the wild *Indians*, who fondly believe they inherit not only the Spoils, but even the Abilities of any great Enemy they kill.'

Ld Strafford.

Ld Trevor.

The Lord *Strafford* spoke on the same Side, as did also Lord *Trevor*, who urg'd, 'That if Men were in this unprecedented Manner, proceeded against without legal Proof, in a short Time Men would be try'd, as they were lik'd by Ministers: That for his own Part, he believ'd he stood but indifferently in the Opinion and Liking of some Persons, and therefore he had Reason to think himself the more in Danger, because at present they wanted the Protection of the Law, [*meaning the Suspension of the Habeas Corpus Act*] and as, in a short time, they were like to be

so unhappy as to be depriv'd of his Majesty's personal Protection, and were still liable to be confin'd upon Suspicion, which he took to be no more than Will and Pleasure; they were consequently at the Will and Pleasure of the Ministers: That, however, no Apprehension of what he might suffer should deter him from doing what he thought his Duty: That, consonant to that Principle, he had all along, and still oppos'd these extraordinary Proceedings, which tended to lodge an exorbitant Power in their Fellow-Subjects: That if he were to lose his Liberty, he had rather give it up to One single Tyrant, than to Many; for a Tyrant, if a Man of common Understanding, would, for his own Sake, be tender of the Lives of his Subjects; whereas many Tyrants would endeavour to destroy one another, to get one another's Employments.' The Earl of *Finlater* E. of Finlater. endeavour'd to shew, ' That the Evidence that had been produced before them, being sufficient to convince any reasonable Man, that there had been a detestable Conspiracy; and that the Bishop of *Rocheſter* had a great Share in it, was likewise sufficient to justify this extraordinary Proceeding against him, especially since they inflicted on him so light a Punishment, considering the Heinousness of his Crime. The Duke of *Argyle* pursued the same Argument; run through D. of Argyle. and confuted the most essential Parts of the Bishop's Defence; and, with Vehemence, aggravated his Offence, by which he had debas'd his Holy Function and Character, and acted contrary to the solemn and repeated Oaths he had taken. ' The Lord *Gower* spoke afterwards against the Bill; Ld Gower. but Lord *Lechmere*, who had all along express'd his Dis- Ld Lechmere. like of these extraordinary Proceedings, declaring it as his Opinion, that there was sufficient Evidence to support the Charge. He was answer'd by Lord *Cowper*, as follows: Ld Cowper.

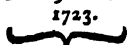
My Lords,

' This Debate has been already carried to that Length, and is by all agreed to be of such Importance, that I am sure your Lordships will permit me to enter into it without any Apology.

' I am, my Lords, against this Bill, not only because I think Nothing has been offer'd sufficient for the Support of it, but because I think the Honour and Dignity of the Crown, the Dignity and Authority of this House, and the Credit and Reputation of the House of Commons, concerned in the Event of it. My Lords, The Proceedings of that House have been, in this Case, very remarkable and uncommon: They voted the Bishop guilty of High-Treason the very first Thing they did; and it was reasonable to expect, that the Consequence

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quence of that Vote would have been an Order for an Impeachment in Parliament, or a Prosecution in the ordinary Course of Law. But, my Lords, we see they have taken another Method, and that without weighing what the Consequences might be. They have taken a Method, whereby they have made themselves both Judges and Accusers. They could not, as Judges, decently proceed against the Bishop, without hearing him, and therefore they gave him a Day for that Purpose, and thereby they discover'd the Dilemma into which they had run themselves. They found themselves obliged to hear him, and yet they could not acquit him, because they had already prejudg'd him. It is not therefore to be wonder'd that they have pass'd this Bill; though, I believe, they would be very well pleas'd your Lordships should reject it, that the Knowledge of their having taken so wrong a Step, might the sooner be forgotten.

My Lords,

A great Deal has been said, and surely too much cannot be said, to shew that this Bill is an Infringement upon the Authority of this House. It becomes your Lordships to support your Dignity, and to shew a suitable Resentment, when the least of your Privileges is invaded. Your Lordships, upon this Occasion, would do well to follow the Example even of this very House of Commons: How contemptuously did they throw out a Bill lately sent them, because they thought it look'd like a Money-Bill? And will your Lordships suffer them to share your Authority, to become Judges equal with your selves, when there is no Necessity for it? In this Case, it is manifest, there can be no Necessity, because the Bishop is amenable to Justice: He has been confined several Months; he is now strictly guarded; and, no Doubt, the Zeal of the Governor will prevent his Running away. But, my Lords, if it could be supposed that this Bill did not affect your Lordships Authority; yet if it affects the Honour of the Crown, I am sure, it will raise a becoming Indignation in us all against it. This Bill, if your Lordships pass it, will put his Majesty under the unavoidable Necessity of refusing the Royal Assent to it, or of condemning one of his Subjects, a Lord of Parliament, and a Bishop of that Church of which his Majesty is Guardian and Protector, in a Case at least doubtful; and that without hearing one Word either of the Charge, or of the Defence. My Lords, It hath been often said, (I wish it were said without Grounds) that we have a disaffected Party amongst us. I am persuaded, it is far from the Intention of any Lord here, to advise his Majesty to do any Thing that might possibly increase that Disaffection: But whether the
passing

passing of such a Bill against a Bishop of the Church of *Eng- Anno 9. Geo.I.*
land, unheard, may not give a Handle to the Clamorous, to
 raise an Odium against his Majesty's Administration, is sub- 1723.
 mitted to your Lordships. His Majesty's great Clemency and
 Mercy are known to all the World; and he has been in No-
 thing more conspicuous, than in the Exercise of those Royal
 Virtues: Supposing, then, your Lordships should pass this
 Bill, how can you ever hope for the Royal Assent to it? These
 Objections, that concern the King, appear to me unanswer-
 able, not only with Regard to this Bill, but to all Bills of At-
 tainder in general. I think they ought never to be allow'd,
 but when the Offender flies from Justice, or is in open Rebel-
 lion; and then, perhaps, the Notoriety of the Fact may be
 some Excuse for the Extraordinariness of the Proceeding.

My Lords,

I expected to have heard from that Reverend Bench ma-
 ny Arguments of another Kind against this Bill, which are
 properly within their Sphere, and which I am sure they are
 perfect Masters of. The old Champions of our Church used
 to argue very learnedly, ' That to make or to degrade Bi-
 ' shops was not the Business of the State; that there is a Spi-
 ' ritual Relation between a Bishop and his Flock, derived
 ' from the Church, with which the State has Nothing to
 ' do: ' But this Bill deprives the Bishop of that Spiritual Re-
 lation, without the Concurrence of the Church. The Par-
 liament alone does it; and it must be owned, that if the
 Parliament can do it, they can as well make a new one in his
 Room; and a Clause for that Purpose, added to this Bill,
 would as effectually do the one as the other. What the
 Thoughts of our Reverend Prelates are upon these Points,
 does not yet fully appear; something of their Conduct inti-
 mates, as if our old Divines were mistaken: But, be that as
 it will, as the Judgment of our Prelates will carry great
 Weight, and as the Reasons for such their Judgment must
 needs be convincing, I do not doubt but they will give your
 Lordships full Satisfaction before this Debate comes to a Pe-
 riod. In the mean Time, I speak my Concern, that if Acts
 of Parliament are made to interfere with Church-Affairs; if
 Bishops are to be put in or turned out at Pleasure; and all
 this to be done without the Concurrence of the Church, the
 World Abroad may, tho' unjustly, look upon our Church as
 a Creature only of the State, and treat our Bishops, as if
 they were no more than State Officers. I hope, however,
 from the Courage, Zeal, and Conduct of our present Re-
 verend Prelates, whatsoever becomes of this Bill, that they
 will be able to wipe off any such Scandal: They certainly

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have the Honour, the Dignity, and Authority of our Church always at Heart ; and every Thing tending to her Interest, they will most zealously promote. But whether the passing of this Bill will promote her Interest, or be of any Service to her, they best know : For my Part, I cannot even guess at any Advantage She possibly can receive by it, unless it be this, That it will make the Bishoprick of *Rocheſter*, and the Deanry of *Weſtminſter*, to become vacant.

My Lords,

This Bill carries in the Frame of it an invincible Objection to it ; for the Preamble and the enacting Part, the Crime and the Punishment, bear no Proportion to each other. The Preamble contains a Charge of High-Treason against the Bishop ; and, pray, my Lords, why should he not be punished accordingly ? Is it because he is a Bishop of the Church of *England*, or a Lord of Parliament, or in high Favour with the King or his Ministers ? I have not heard that the Bishop hath been at Court of late ; but be it either of these, it would be so far from being a Reason for mitigating his Punishment, that it ought, if possible, to increase it. My Lords, Our Laws have wisely taught us to have a just Abhorrence of High-Treason, and have ordain'd for it the severest Punishment that *Engliſh* Clemency will admit of ; and shall he, who has been voted the principal Contriver and Director of this most horrid and detestable Treason, escape with a Punishment less than his Crimes deserve, and that too in full Parliament ? Methinks, if it were necessary that the Legislature should interpose in this Case, the Heinousness of the Offence should fire their Resentment ; and instead of abating the Punishment, should put them upon heightening it with all the Circumstances of Severity that their Wisdom could contrive. As in the Case of the late *South-Sea* Directors : No one will say, but that they might have been punish'd as Cheats, without the Help of an Act of Parliament ; but as the Punishment ordained by our Laws for such Offences came not up to the aggravating Circumstances of their Guilt, a Law was made to punish them on purpose ; and they were justly stripp'd of their Estates, who had before so notoriously cheated, bubbled, and beggar'd the whole Nation. What Reason, then, can be given why the Bishop should not be punished, at least equal with others, in Cases of High-Treason ? Why truly, the Want of legal Evidence is the only Reason pretended : A Reason ! in my Apprehension, so very mean and trifling, that it ought not to have been heard in the supreme Judicature of a Nation, without the severest Censure, and such as would well become your Lordships to treat with the utmost Indignation and Contempt.

For

* For, my Lords, Is it come to this at last, that after so much Grimace, so much Noise and Stir, after committing the Bishop for High-Treason, after voting him a Traytor, and treating him as such, must it at Length come out, that there is no legal Evidence against him ! To palliate the Matter a little, a Distinction is endeavoured to be made between legal Evidence and real Evidence, or between such Evidence as our Law requires, and such as in natural Justice and Equity ought to be admitted. But, my Lords, this is a Distinction entirely without a Difference ; for what is Evidence of a Fact before any Judicature whatsoever, but such Testimony as the Nature of the Case requires, to induce a moral Certainty of the Truth of the Thing testify'd : The greater or less Consequence the Case is of, the more or less Proof is required to induce such Certainty. Thus, in ordinary Matters, barely to prove a Hand-writing is held sufficient Evidence ; because, in such Cases, it is not to be supposed the Hand-writing should be counterfeited : In other Cases, seeing the Party write, is necessary to be proved ; and still as the Weight of the Case increases, stronger Proof is required. Ever since the Reversal of the Attainder of Colonel *Algernon Sidney*, the proving of Treason by the proving of Hand-writing, hath been with great Justice, condemned ; and, why I pray ? But because there can be no Hand-writing but what will admit of a Counterfeit ; and Nothing that is capable of being counterfeited, carries with it such a Degree of Certainty, as is necessary where a Man's Life and Fortune is concern'd. My Lords, Legal Evidence is Nothing else but such real and certain Proof, as ought, in natural Justice and Equity, to be receiv'd ; and therefore the Oath of one credible Witness, being certain and sufficient to induce a Belief of the Thing he swears, is legal Evidence ; and yet so tender is our Law, so great a Degree of Certainty doth it require, that, as it now stands, two positive Witnesses are required to convict a Man of High-Treason. This, however, hath been preposterously enough urg'd, to shew a Difference between legal and real Evidence ; and Sir *John Fenwick's* Case hath been cited for the same Purpose. But this, with Submission, shews no Difference at all ; for will any one say, that one credible Witness is not legal Evidence ? Can any Court in the Kingdom, upon a Tryal of High-Treason, refuse to hear such Evidence ? And is not such Evidence sufficient too in all Cases, where some positive Law, for the greater Certainty, doth not require more ?

* One of the learned Gentlemen at the Bar *, (I suppose out of pure Zeal for this Bill, and not with a Design to misguide
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his

* Mr Wearg.

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his Audience) did roundly affirm before your Lordships, that no Evidence, strictly speaking, was legal, but what was Mathematical. I am confident, that Gentleman would not have given this as his Opinion under his Hand at his Chamber, because he knows it is directly contrary to Truth: He knows very well that no Offender, that puts himself upon his Tryal, can be convicted, but upon the Oath of one or more Witnesses; he dares not deny but that such Conviction is founded upon legal Evidence, strictly so speaking; and no one will pretend to say, that any Evidence of Witnesses can be call'd Mathematical. But the Gentleman goes on, and says, ' That the Evidence for this Bill is legal, in the general Sense of the Word: On the contrary, I beg Leave to affirm, That it is not legal in any Sense whatsoever. No Act of Parliament hath made it legal, nor can it, in natural Justice and Equity, be called so, for want of sufficient Certainty; and, indeed, it hath been admitted throughout this Debate, and even by the Counsel who spake first for this Bill, that it is not supported by legal Evidence. But this Gentleman was pleased to go still farther, for he affirmed before your Lordships, That Depositions taken in Writing, were not Evidence in any Court of Law. My Lords, it is pity that in so fine a Speech there should be so much false Doctrine: It is very true, that the Law doth require the best Evidence that the Nature of the Case will admit of; and therefore will not suffer the Depositions of a Witness in Writing to be read, where such Witness can be examined *visu veris*: But that Gentleman could not but know, that where such living Witness is not to be had, his Depositions in Writing are never refused, nor any other Evidence that, in natural Justice and Equity, can tend to discover the Truth of the Fact in Question with Certainty.

My Lords,

' The Wisdom and Goodness of our Law appear in nothing more remarkably, than in the Perspicuity, Certainty, and Clearness of the Evidence it requires to fix a Crime upon any Man, whereby his Life, his Liberty, or his Property may be concern'd: Herein we glory and pride ourselves, and are justly the Envy of all our Neighbour Nations. Our Law, in such Cases, requires Evidence so clear and convincing, that every By-stander, the Instant he hears it, must be fully satisfy'd of the Truth of it: It admits of no Sarmises, Innuendo's, forced Consequences, or harsh Constructions, nor any Thing else to be offered as Evidence, but what is real and substantial, according to the Rules of natural Justice and Equity.

' These

• These are the Rules the Judges go by, nor have they any other in determining what is, or what is not to be admitted as Evidence before them; and therefore to say, that the Law refuses such Evidence as is real, and ought, in natural Justice and Equity, to be admitted, is to cast an Imputation upon the Law, which is not only unjust, but entirely groundless. My Lords, I think sufficient hath been said to shew the Mistake of those Noble Lords who have endeavoured to distinguish between legal and real Evidence. The Distinctions that have been made, and the Instances that have been produced, shew only what legal Evidence is sufficient for Conviction, and what not; and if that were the Question now before your Lordships, it would deserve another Consideration.

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• The present Question is, Whether any Evidence at all has been offered to your Lordships to fix Treason upon the Bishop of *Rockester*; and for my Part, my Lords, I am clearly of Opinion, that you have had no such Evidence: It is on all Hands agreed, that no legal Evidence of Treason has been offered against him; and, I hope, I have sufficiently satisfy'd your Lordships, that if it be not legal Evidence, it is not real Evidence, or such, as in natural Justice and Equity, ought to be admitted, and consequently no Evidence at all. My Lords, the Counsel for the Bill have not attempted to prove positively against the Bishop any one single criminal Act: The Circumstances that they have offered are in my Opinion, so far from affecting him, that they carry in them no Appearance of Guilt in him whatsoever. If indeed there had been any one positive Witness against him, your Lordships, perhaps, (as was done in Sir *John Fenwick's* Case) might, with some Appearance of Reason, have admitted Circumstances in Support of such Witness, rather than a Man of the Bishop's Rank and Character should go unpunished; and, indeed, I think, no Man's Cunning ought to be a Protection for his Villainy; and I hope, and do not doubt, but all Traytors will, one Time or other, meet with their just Rewards. But, my Lords, in the Case before you, the whole Charge is built upon Circumstances, and these are said to be supported by other Circumstances; but all of them are so remote, so general, and, I may say, so inoffensive, that they might suit any Lord here as well as the Bishop; for there is not one single Circumstance of them all, such as in its Nature would be admitted as Evidence of any Crime against any Man in any Court in the Kingdom.

• To come, my Lords, to Particulars, the Treason charged

Anno 9. Geo.I. ed upon the Bishop is, That he dictated to *Kelly* the three Letters, dated the 20th of *April* 1722, signed, *Jones, Illington*, and 1378. And in Maintainance of this Charge, 'tis said, that those three Letters were the same Hand-writing with another Letter produced before your Lordships, and dated the 20th of *August* following : That from the 20th of *April* to the 20th of *August*, Letters were continually sent Abroad in the same Hand-writing ; that these Letters contained a treasonable Correspondence ; that they are the Hand-writing of *Kelly* ; that *Kelly* had been with the Bishop two or three Times within these two or three Years past ; that there are Circumstances in the Case of *Jones* in this Correspondence, that suit with the Case of *Illington*, and Circumstances in the Case of both that suit with the Bishop. These are the Facts that are the main Foundation upon which the Bishop's heavy Charge is built ; and surely it well behoves your Lordships to consider seriously how they are proved, and in what Manner, and with what Degree of Certainty they affect him.

The three Letters taken simply carry no Treason in them ; they have not yet been decypher'd into Treason, and were it not for a Name in the Direction of one of them, which is said to be a Cant Name of the Pretender's, they probably might have passed as harmless undesigned Letters ; will your Lordships therefore suppose that the Writer directed his Letter to the Pretender by the Cant Name of *Jackson*, when yet it does not appear that he ever knew the Pretender had such a Cant Name ? Ought we not rather to suppose in Favour of Innocence, that the Letter was not intended for the Pretender, but for one whose real Name it bears ? These Cant Names, and the Art of the Decyphers have been the Means made Use of to make this Correspondence treasonable ; but will it not be thought hard that a Man must be conjured into Treason by a Magick Art that none of us understand, and by a Parcel of Names that the wisest of us are not yet able to discover whether they were designed for Cant Names or for real ones ? To make the Matter clearer, the Clerks of the Post-Office are called, and they prove that the several Letters, produced before your Lordships, are true Copies of original Letters, sent Abroad as directed ; which Originals, according to the best of their Judgment and Belief, are the same Hand-writing with the Letter of the 20th of *August* abovementioned. This Judgment and Belief of theirs is founded, without comparing any two of these Originals together, or without pretending to say whose Hand-writing they are, or to whom they belong. My Lords, I have already

ready observed, that the proving of a Hand-writing is, at Anno 9: Geo. I.
 best, but Evidence too precarious and uncertain, to make
 good a Charge of so weighty a Nature as this in Judgment
 before you; but I cannot help taking Notice, that the Proof
 of these Letters, so as to make them treasonable, is still more
 precarious, more uncertain and slippery, than any Thing
 of the Kind I ever met with. The usual Way to prove a

Hand-writing, so as to fix a Charge upon the Writer, is, for
 the Witness to swear that he hath frequently seen the Party
 write, or that he hath corresponded with him, and received
 several Letters from him, and therefore is very well acquaint-
 ed with his usual Character and way of Writing; and then
 the Writing itself is produced, the Witness swears to it, and
 the Import of it is discovered by every By-stander. But here
 these Post-Office Clerks are forced to call in Aid, a Messen-
 ger and a Servant, to fix the Hand-writing of the Letters
 they produce; the Letters themselves are unintelligible, and
 therefore the Assistance of the Decyphers and some Cant
 Names must be added, before they can wire-draw Treason
 out of them. My Lords, these Decyphers refuse to give
 your Lordships any Reason for the Construction they have
 made; they shelter themselves by saying, that to give you
 a Reason, would be to discover their Art; happy Art, indeed,
 that shall enable the Artist to swear a Man into High Treason,
 and yet it shall not be in the Power of the accused Per-
 son to disprove him. I do not find that these Gentlemen pre-
 tend to act by unerring Rules; they themselves own they
 may be mistaken, and therefore until your Lordships are let
 farther into their Secret, you will judicially look upon the
 Art of decyphering to be no more than the Art of guessing,
 and esteem him that guesses best to be the best Decypherer.

The Messenger and Servant that have been called to fi-
 nish the doubtful Evidence of this Hand-writing, and to fix
 it upon *Kelly*, are far from giving your Lordships such an Ac-
 count of it, as can induce you to believe they are sufficient-
 ly acquainted with it; they do not pretend to say, that they
 have been frequently accustomed to see or observe him write,
 or that they ever received any Letters from him, or ever
 were privy to any of his Correspondences; these Things,
 one would have thought, might easily have been proved a-
 gainst a Man of *Kelly's* great Dealing and Acquaintance, in
 as full and clear a Manner as the Nature of the Thing would
 admit of. Your Lordships then are pleased to observe, that
 the Evidence offered to prove this Hand-writing, so as to
 make it criminal, consists of three distinct Branches, suppor-
 ted by three different Sets of Witnesses; and that each of
 these

Ann^o 9. Geo. I. these three several Sets have given a very lame, doubtful and
 1723- obscure Evidence; but if their Evidence had been ever so
 full and positive, yet I must beg Leave to insist, that it is
 such as is in its Nature dubious and uncertain, and there-
 fore in a Case of this Consequence ought not to be relied on.
 This will appear still the plainer from the different Opinions
 observable among the different Witnesses, inasmuch that I
 may well venture to say your Lordships are as yet at a Loss
 by whom these Letters were wrote; but if you will have any
 Regard to Numbers, and to the Nature and Circumstances
 of the Testimony given by those Numbers, the Evidence is
 much stronger, and more clear and convincing, that they
 were not wrote by *Kelly*, than that they were; and if they
 were not wrote by him, it will become your Lordships to con-
 sider carefully what you are a-doing; for then the Founda-
 tion of this Bill will be sapp'd, and of Course the whole
 Fabrick must fall to the Ground.

But, my Lords, supposing these Letters were really the
 Hand-writing of *Kelly*, that they were of that treasonable
 Signification that the Decyphers contend for, and that the
 Names mentioned in them did not belong to real Persons but
 were Cant Names to denote the *Pretender* and his Agents;
 I say, my Lords, supposing all this true of *Kelly*, how will
 it affect the Bishop? Might not *Kelly* write these Letters,
 and carry on this Correspondence without the Bishop's Di-
 rection? Must the Bishop answer for *Kelly's* Crimes, because
Kelly happens to be a Nonjuror? or because he was employ-
 ed to buy Gloves and Stockings for the Bishop, must your
 Lordships therefore infer, that he was employed to write
 Treason for him? Suppose *Kelly* had actually liv'd in the
 Bishop's Family as his Secretary, have we not seen, not ma-
 ny Years since, even a *Jesuit* * a Bishop's Domestick with-
 out Offence? Give me Leave, my Lords, to carry this Point
 a little farther: Has any Thing been offered to induce your
 Lordships to believe that *Kelly* saw the Bishop, or heard
 from him for several Months before this Correspondence be-
 gan? Has any one Word been said, or Hint given, either
 from Cant Names or decyphered Letters, or any otherwise
 howsoever, tending to that Purpose? Nay, my Lords, have
 you not had as much Evidence as the Nature of the Thing
 is capable of, that the Bishop could not dictate, nor *Kelly*
 write those Letters, at any Time near the Time of their
 Date? And if they were dictated by the Bishop, it must be
 about that Time, because the Circumstances mentioned in
 the

† The famous Jesuit La PILLONERE, that made so great a Figure,
 Anno, 1717, in what was then call'd the BANGORIAN Controversy.

the Letter would not suit him at any other Time. And here, my Lords, it is proper to observe, that the Managers for the Bill, when they were to apply the Circumstances of *Jones* and *Illington* in the Letters to the Bishop's Case, they built the Whole of their Arguments upon the Date of those Letters; but when they saw that the Bishop had fully prov'd that it was impossible he could dictate them at that Time, why then truly they vary their Charge, and say, that it was not his dictating the Letters at that Time, but his dictating the Letters of that Date that they contended for; and they tax the Bishop with a partial and fallacious Defence, for applying it to the Time, and not to the Fact. But, I think, with great Submission, that the Bishop has made a very just Defence [See p. 312.] I think he could not have made a better; and under the Disadvantage of proving a Negative, I think it was almost impossible he should have made one so good. For your Lordships well remember, he was charged as the Author of the Letters signed *Jones* and *Illington*, because he was under the Circumstances of *Jones* and *Illington* at the Time of the Date of those Letters: But the Bishop hath fully proved, that he could not be the Author of them at that Time; and if he were not at that Time, he could not be so at any other Time; for take away the Date of those Letters, and the Relation between *Jones* and *Illington*, and the Bishop, you must of course take away likewise. But then as your Lordships are yet at a Loss when, or by whom, these Letters were either dictated or wrote, shall the tallying of a few Circumstances in them with the Bishop's Case, supposing them to be wrote about the Time of their Date, make him guilty of High-Treason; especially when his Counsel have shewed us, from the Letters themselves, as many Instances wherein they differ'd? Must Mrs *Jones* and the Bishop's Lady signify the same Person, because they died about the same Time? Or must Mrs *Jones* and Mrs *Illington* signify the same Person, because by a Letter wrote, no one knows by whom, or when, Mention is made of the Death of one Mrs *Jones*, and another Letter condoles the Death of one Mrs *Illington*? Or is the Bishop guilty of High Treason, because he is supposed to be meant by *Jones* and *Illington*; when yet, through the whole Correspondence, there is no Treason committed either by *Jones* or *Illington*? But admitting that all the Circumstances that have been produced against the Bishop, hit him so exactly, that it is morally impossible they could mean any Body else; yet still, my Lords, what has the Bishop to do with it? Might he not be thus describ'd, and thus spoke of, and yet know nothing at all of

Anno 9. Geo. I.
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Anno 9. Geo. I.

1723.



the Matter ? And if he is thus to suffer for what another Man may have said of him, I am sure he is the first, and I hope he will be the last that ever will be distinguished in so extraordinary a Manner. The Sum then of all the Circumstances that have been offered as Evidence against the Bishop, amounts to this ; Here have been a Parcel of Cant Names produced and made Use of against him, which, for ought appears, he never heard of. Here have been Letters produced, and read against him, wrote in Cyphers, and of a Hand-writing not pretended to be the Bishop's, and of which your Lordship's have as yet had no Manner of Certainty. A Construction hath been put upon these Letters, which, in several Circumstances, hit the Bishop, and, in several other, miss him ; but amongst all these Circumstances, there is not the least Hint of any Word said, or Act done by him, relating to this Conspiracy, from first to last ; nor doth it appear, that he was ever privy to it, or so much as heard of it, till it was known to all the World. And yet, my Lords, these, and such as these, are the Circumstances whereby the Bishop is to be guessed into High Treason ; but I hope your Lordships will be very cautious how you make Precedents of such wretched guess-work. The celebrated Letter of *Debois*, now before you, is a notable Proof of the Necessity of such Caution ; for we see the grand Promoters of this Bill cannot agree in their Construction, or they have at least changed their Opinions about that famous Letter.

The Uncertainty of this Way of guessing, puts me in Mind of some remarkable Circumstances relating to the renowned Mr *Neynos*, which I had like to have forgotten, and which, tho' they seem to be under the Misfortune of being slighted here, do yet, in the Report of the Committee of the House of Commons, make a very considerable Figure. Those Circumstances of *Neynos* in that Report, appear to be not only the Foundation of the Charge against *Kelly* and the Bishop, but even the Foundation of the Plot itself ; and the Art and Management with which they are there dress'd up, do well deserve your Lordships Attention. It seems, my Lords, this worthy Man had been examined four several Times ; his Examinations were taken in Writing, and contained an historical Account of the carrying on of this Conspiracy. The learned Committee, at the same Time that they would represent him as a vile and infamous Fellow, and would be thought to look upon his Examinations as insufficient, do yet open their Scene with this very Account, and build entirely upon it. But would any one believe that *Neynos* was never sworn to, or so much as signed

signed any one of these Examinations? Can any Body think that he was not required to do one or both? Does not every Body know, that they would otherwise be of no use? May we not therefore reasonably suppose, that he refused to do either the one or the other? And can any Reason be given for such Refusal, but that they were not true?

Anno 9. Geo. I.

1723.

My Lords,

The Committee were well aware, that great Objections would be made to this Kind of Evidence, and therefore they have added to it some circumstantial Hearsays, which they call the corroborating and concurrent Proofs of *Neynoe's* Testimony. But pray, my Lords, what are these corroborating and concurrent Proofs? Why, they are of this Kind, one Man heard another Man say, that a third Man was concern'd in this Conspiracy. Behold then the Sum of the Argument, *Neynoe's* Examination is admitted of itself to signify nothing; the same likewise cannot be denied of *Pancier's* Hearsay: But however both these Nothings make up something to prove the Plot, because they are the corroborating and concurrent Proofs of each other. And thus the learned Committee have so contrived it, that they have made these Examinations of *Neynoe* to be of more Use, and to serve their Purpose better, than if *Neynoe* himself had been now living, and produced before your Lordships; and therefore it looks as if it were prophetically known, that the Man intended to hurl himself out of the World with a winding Sheet*. But however that be, it is Matter of Surprize, that these Examinations, which the Committee treated so respectfully, should now by the Counsel be so slighted, that they have scarce mentioned them, but as if they were ashamed of them; and yet they are as good Evidence as any that have been offer'd in favour of the Bill now before your Lordships.

But, my Lords, in the Course of this Debate, it hath been warmly urged, that though there be not legal Evidence against the Bishop, yet that all the Circumstances that have been offer'd against him are sufficient to convince any Man in his private Judgment that the Bishop is guilty. Nay, it hath been said, that these Circumstances put together, are stronger and more convincing, than any positive Evidence whatsoever; and therefore that no one can doubt of the Bishop's Guilt, though some, out of Compassion or good Nature, might be induced to vote in his Favour. How strong and convincing, or rather how impertinent and trifling

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these

* *Neynoe* got out of the Messenger's House where he was confined, by tying the Sheets of his Bed together, and sliding down from the Window, but was drown'd in attempting to make his Escape.

Anno 9. Geo. I.

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these Circumstances are, I have already observed to your Lordships ; and I must say, it was not without a good Deal of Concern, that I heard That urged as the Result of Judgment, which could have no other Foundation than in Opinion only. But, my Lords, this is not the first Instance wherein I have observed Judgment and Opinion to be confounded and mistaken the one for the other, and that too in a very gross and dangerous Manner. My Lords, Men's Opinions, generally speaking, are Nothing else but their Fancies or Imaginations, and are usually grounded upon personal Pique, or Party-Prejudice. These are weak and slender Foundations, and have Nothing to do, and I hope in *England* never will have any Thing to do, where a Man's Life, his Liberty, or his Property is concern'd. But, my Lords, a Man forms his Judgment according to the Evidence that is offer'd him, that alone is his Rule ; and as the Perspicuity or Uncertainty of that appears, Justice requires a Determination accordingly. The Compliment therefore upon the noble Lords that have appear'd against this Bill (if it was intended as a Compliment) carries a very severe Sting in the Tail of it, as it supposes those noble Lords to be possibly capable of giving an unjust Judgment. My Lords, the Earl of *Strafford* lost his Head for accumulative Treason. A great many Facts were laid to his Charge, and tho' it was agreed on all Hands, that not one of them singly amounted to Treason, yet it was insisted on, that all of them put together, shewed an Intention in him to subvert the Government, and therefore that he was a Traytor. The Torrent of those Times taught Men to argue, that though the Charge against the Earl did not contain legal Treason, yet it was morally impossible that he could commit the Crimes contained in that Charge, and not intend the Destruction of the State ; that the Facts by him done, shewed him more a Traytor than any positive Act of Treason could do ; and that if Men were satisfy'd in their private Opinions that the Earl was, in the Main, guilty of Treason, he ought to suffer accordingly. My Lords, this was the Reasoning of those Days ; a Reasoning ! Which I hope your Lordships will neither imitate nor encourage, because it was the Foundation of those Proceedings against that great Earl, which were soon after in full Parliament so justly branded ; and if future Parliaments should not be able to discover any Difference between the Inconveniencies arising from accumulative Evidence and accumulative Treason, may they not with great Justice censure us, by condemning the one equally with the other ? That which was then called accumulative Treason, was afterwards adjudged to be no Treason, and I hope your Lordships

ships will yet adjudge this accumulative Evidence to be no Evidence: I am sure you will not punish a Man in the severest Manner, until you have had some Reason given you, why you should punish him at all. You will not first believe a Man a Criminal without Proof, and then admit a criminal Construction to be forced upon every innocent Action, only to support such Belief. You will not adjudge a Man guilty of the highest Crime against the Law, when his Prosecutors themselves own, they cannot make good any one Branch of their Charge according to Law.

Anno 9. Geo. I.
1723.

‘ The Bishop’s Case must be owned to be very hard, and the Evidence against him very weak, when his own Letter to his Son, and the Letter to *Dubois* are put to the Torture to help out the Charge against him. As for the Letter to *Dubois*, it is amazing to consider that such Pains should be taken from a Similitude of a broken Impression on Wax with a whole one, and a Similitude of two little E’s *, to fix it upon the Bishop; which, when fixed, can serve no Purpose at all against him; for that Letter hath neither Date, Subscription, Cypher, nor Cant Name in it; and for ought appears may have been wrote before the Man was born whom they would mean by *Johnson*, therein named. Nothing treasonable is pretended to be guessed out of it, nor, for ought appears, was it ever seen by any one besides the Writer; and yet because it is there said that the Writer wrote something (no one knows what, or when, or to whom) in the Hand of one Mr *Johnson*, your Lordships are persuaded to infer, in Opposition to the positive Evidence of all the Bishop’s Family, that *Kelly* was an Intimate of the Bishop’s, and employed to write his Treasons. The Use that is made of the Bishop’s Letter taken from his Servant, is still more extraordinary. I have indeed too often observed doubtful Actions, by the Help of bold Innuendoes, construed criminally; but to give That in Evidence which was neither said nor done, to Innuendo Silence it self into High-Treason, is entirely new, and the learned Counsel deserve the Glory of the Discovery. But the Bishop’s Case will still appear the harder, when it is considered, that such Strefs hath been laid upon such remote and distant Circumstances in Favour of this Bill, and at the same Time your Lordships were not pleased to receive on the Bishop’s Behalf legal Evidence, real Evidence, and such as in natural Justice and Equity ought to have been admitted. [See p. 333.]

‘ The Bill that hath lately passed both Houses against *Kelly*, doth not hinder him from being still a Witness, for it hath not yet had the Royal Assent, and perhaps never may; but if
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* See the Duke of Wharton’s Speech. p. 375.

Anno 9. Geo. I.

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it had, there is, as I apprehend, Nothing in that Bill, that will take away his Testimony in any Court in the Kingdom. But be that as it will, I must beg Leave to insist that he is at present a good Witness, and as every Body is satisfied that it was in his Power to clear up this whole Affair, who knows what the Awe of an Oath might have extorted from him? He appears to be a Man under the Influence of Conscience, for his refusing the Oaths to the Government, and thereby suffering his Subsistence to be taken from him, is a manifest Proof of it. If therefore your Lordships had permitted *Kelly* to be produced when the Bishop called for him, something probably might have been discover'd to have ascertained either the Bishop's Guilt or his Innocence. But as his Case now stands, the Evidence of his Guilt appears very dark, and for ought I can observe, is like to continue so.

My Lords,

' I have now done ; and if upon this Occasion, I have tired your Patience, or discovered a Warmth unbecoming me, your Lordships will impute it to the Concern I am under, lest, if this Bill should pass, it should become a dangerous Precedent for after Ages. My Zeal, as an *Englishman*, for the Good of my Country, obliges me to set my Face against Oppression in every Shape ; and wherever I think I meet with it (it matters not whether one Man or five hundred be the Oppressors) I shall be sure to oppose it with all my Might: For vain will be the Boast of the Excellency of our Constitution ; in vain shall we talk of our Liberty and Property secured to us by Laws, if a Precedent shall be establish'd to strip us of both, where both Law and Evidence are confessedly wanting.

My Lords,

' Upon the whole Matter, I take this Bill to be derogatory to the Dignity of the Parliament in general, to the Dignity of this House in particular: I take the *Pains and Penalties* in it to be much greater, or much less than the Bishop deserves ; I take every individual Branch of the Charge against him to be unsupported by any Evidence whatsoever. I think there are no Grounds for any private Opinion of the Bishop's Guilt, but what arises from private Prejudice only ; I think private Prejudice has Nothing to do with judicial Proceedings, I am therefore for throwing out this Bill.

E. of Peterborough.

E. Cholmondeley.

A Bill for inflicting Pains and Penalties on the Bp of Rochester passes the House.

The Earls of *Peterborough* and *Cholmondeley* spoke for the Bill ; and then the Question being put, it was resolv'd that the Bill do pass.* Content 83. Not Content 43.

Dissentient

* The Bill against the Bishop of Rochester enacts, ' That after the 1st of June, 1723, he shall be deprived of all his Offices, Dignities, and

Dissentient

I. Because the Objection which we thought lay against the Bills of *Plunkett* and *Kelly*, that the Commons are thereby, in effect, let into an equal Share of Judicature with the Lords, does hold stronger, as we apprehend, against the present Bill, since by means of it a Lord of Parliament is, in part, tried and adjudged to Punishment in the House of Commons, and reduc'd to a Necessity either of letting his Accusation pass undefended in that House, or of appearing there, and, as we take it, derogating from his own Honour, and that of the Lords in general, by answering and making his Defence in the Lower House of Parliament.

Anno 9. Geo. I.
1723.
Protest against it.

II. Because we are of Opinion, that the Commons would be very far from yielding to the Lords any Part of those Powers and Privileges, which are properly theirs by the Constitution, in any Form or under any Pretext whatsoever; and it seems to us full as reasonable, that the Lords should be

as

and Benefices Ecclesiastical whatsoever, and that the same shall from thenceforth be actually void, as if he were naturally dead; that he shall from thenceforth for ever be disabled, and render'd incapable of taking, holding, or enjoying any Office, Dignity, Benefice, or Employment within this Realm, or any other his Majesty's Dominions, and also of using or exercising any Office, Function, Authority, or Power Ecclesiastical or Spiritual whatsoever, and shall suffer perpetual Exile, and be for ever banished this Realm, and all other his Majesty's Dominions, and shall depart out of the same before the 25th of June, 1723. And that if he shall return into, or be found within this Realm, or any other his Majesty's Dominions, at any Time after the said 25th of June, 1723, he being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer and forfeit as in the Cases of Felony, without Benefit of Clergy, and shall be utterly incapable of any Pardon from his Majesty, his Heirs or Successors.

That all Persons who shall, from and after the said 25th of June, 1723, be aiding or assisting to the Return of the said Bishop of Rochester into this Realm, or any other his Majesty's Dominions, or shall harbour or conceal him within the same, or any of them, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer and forfeit as in Cases of Felony, without Benefit of Clergy.

That if any of the Subjects of his Majesty, his Heirs or Successors, except such Persons as shall be licensed for that Purpose by his Majesty, his Heirs or Successors, under the Sign Manual, shall, after the said 25th of June, 1723, within this Realm or without, keep any Intelligence or Correspondence in Person, or otherwise, with the said Bishop of Rochester, or with any Persons employed by him, knowing such Persons to be so employed, such Persons so offending, being thereof lawfully convicted, shall be adjudged guilty of Felony, and suffer and forfeit as in Cases of Felony, without Benefit of Clergy.

And that if any Offence against this Act shall be committed out of this Realm, the same may be alledged, laid, inquired of, and tried in any County within Great Britain.

Ann^o 9. Geo. I. as tenacious of the Rights and Privileges, which remain to them as the Commons are on their Part.

1723.

III. We think this Bill, against a Lord of Parliament, taking its Rise in the House of Commons, ought the rather not to have receiv'd any Countenance in this House, for that, as it appeared to us by the printed Votes of the House of Commons, that House had voted the Bishop guilty of all the Matters alledg'd against him in the Bill, before the Bill was brought into that House, and consequently before the Bishop had any Opportunity of being heard; and although there be nothing absurd in passing such a Vote in order to their accusing by an Impeachment, yet it seems to us absolutely contrary to Justice, which ought to be unprejudic'd, to vote any one guilty against whom they design to proceed in their Legislative Capacity, or in the Nature of Judges, before the Party has an Opportunity to be heard on the Bill which is to ascertain the Accusation, or it is so much as brought in.

IV. We are of Opinion, that no Law ought to be pass'd on purpose to enact, that any one be guilty in Law, and punished as such, but where such an extraordinary Proceeding is evidently necessary for the Preservation of the State; whereas the Crime offered to be proved against the Bishop of *Rochester* is, as we apprehend, his partaking in a traitorous Conspiracy against the Government; which Conspiracy (by God's Blessing) is detected, and, as we hope, disappointed, without the Aid of such a dangerous Proceeding as we conceive this to be.

V. Because there are yet certain known and establish'd Rules of Evidence, which are Part of the Law of the Land, either introduc'd by Acts of Parliament, or framed by Reason and the Experience of Ages, adjust'd as well for the Defence of Life, Liberty, and Property of the Subject, as for the Punishment of the Guilty; and therefore these Rules are, or ought to be, constantly adhered to, in all Courts of Justice; and, as we conceive, should be also observ'd, till alter'd by Law in both Houses of Parliament, whenever they try, judge or punish the Subject, tho' in their Legislative Capacity: But since, in many Instances, in this and the two other Proceedings by Bill, we have been taught the Opinion of the House, that these Rules of Evidence need not be observ'd by the Houses acting in their Legislative Capacity, we clearly take it to be a very strong Objection to this Manner of Proceeding, that Rules of Law made for the Security of the Subject are of no Use to him in it; and that the Conclusion from hence is very strong, that therefore it

ought not to be taken up, but where clearly necessary, as Anno 9. Sep. 1. before affirmed; and we desire to explain ourselves so far upon the Cases of Necessity excepted, as to say, we do not intend to include a Necessity arising purely from an Impossibility of convicting any other Way.

1723.

VI. If it be admitted, that traitorous Correspondences in Cyphers and Cant-words may, to a Degree, be discouraged by this Sort of Proceeding, in which Persons, as we think, are convicted on a more uncertain Evidence than the known Rules of Law admit of, yet, we are of Opinion, that Convenience will be much more than out-weighed by the Jealousy it must of Necessity, as we conceive, create in the Minds of many of his Majesty's most faithful Subjects, that their Lives, Liberties and Properties are not so safe, after such repeated Examples, as they were before; and by the natural Consequence of this Apprehension, an Abatement of their Zeal for the Government may ensue, excepting such Persons as have had more than ordinary Opportunities of being well instructed in Principles of the utmost Duty and Loyalty.

VII. We cannot be for the passing this Bill, because the Evidence produc'd to make good the Recital of it, or that the Lord Bishop of *Rocheſter* is guilty of the Matter he therein stands accused of, is, in our Opinion, greatly defective and insufficient, both in Law and Reason, to prove that Charge; the Evidence consisting altogether, to the best of our Observation, in Conjectures arising from Circumstances in the intercepted Letters, or on a Comparison of Hand-writings, resting on Memory only, and there being, as we think, no Proof of the Bishop's knowing of, or being privy to any of the said Correspondence; and as to the principal Part of the Charge against the Bishop, and on which, as we think, all the rest does depend, *viz.* the Dictating the Letters of the 20th of *April* 1722, which the House of Lords seem to have determin'd that *Kelly* wrote, we are of Opinion, that the Bishop has in his Defence very clearly and fully prov'd, that he did not, nor possibly could, dictate those Letters, or the Substance of any Part of them, to *Kelly*, either on the Day of their Date, or at any Time during several Days next before or next after the Day of their Date, nor was in any Capacity to write them himself, tho' the Letters must have been wrote within that Compass of Time; and we are, on the whole, of Opinion, that the Proof and Probability of the Lord Bishop of *Rocheſter's* Innocence, in the Matters he stood charged with, were much stronger than those of his Guilt.

Scarſdale, Bruce, Salisbury, Poulett, Dartmouth, Cra-
ven, Aylesford, Ashburnham, Eastburſt, Weſton, Arun-
1723.

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Anno 9. Geo. I.

1723.



dell, Exeter, Oxford and Mortimer, Willcughby de Broke, Pomfret, Hereford, Bingley, Osborne, Gower, Guildford, Cowper, Strafford, Denbigh, Northampton, Montjoy, Berkeley de Stratton, Cardigan, Fran. Cestriens', Anglesea, Litchfield, Foley, Hay, Trevor, Uxbridge, Compton, Masbam, Middleton, Brooke, Stawell.

I dissent for the Sixth and Seventh Reasons of the foregoing Protestation, and for the following Reasons :

I. Because this extraordinary Method of proceeding, by Bills of this Nature, against Persons who do not withdraw from Justice, but are willing to undergo a legal Tryal, ought, in my Opinion, to be supported by clear and convincing Evidence ; and, I apprehend, there has been nothing offered to support the Allegations set forth in the Preamble of the Bill, *To inflict Pains and Penalties on Francis Lord Bishop of Rochester*, but what depends on decyphered Letters, forc'd Constructions, and improbable Innuendo's.

II. I conceive, that the Examination of *Philip Neynoe*, taken before the Lords of the Council, not sworn to, nor signed, which appears to me to be the Foundation on which the Charge against the Bishop of *Rochester* is built, has been, in my Apprehension, sufficiently proved, by the positive Oaths of three Persons, two of which have been, for several Months, in separate Custodies, confirm'd by other Circumstances, to have been a false and malicious Contrivance of the said *Neynoe*, to save himself from the Hands of Justice, and to work the Destruction of the Bishop of *Rochester*.

III. I do not apprehend, that the Letters of the 20th of *April*, which are suggested to be wrote by *George Kelly* alias *Johnson*, and dictated by the Bishop, have been sufficiently proved to be the Hand-writing of the said *Kelly* ; but, on the contrary, it appears, to the best of my Judgment, that the Letter of the 20th of *August* (stopt at the Post-Office, and from which the Clerks of the Post-Office, on their Memory only, swear they believe the said Letters of the 20th of *April* to be the same Hand-writing, tho' they never compared two original Letters together during all that Time) has been proved by three credible Witnesses, concurring in every Circumstance of their Testimony, and well acquainted with the Hand-writing of the said *Kelly*, not to be his Hand-writing ; and, I conceive, that the Difference they observed in the Hand of the said *Kelly*, upon which they ground their Opinions, is sufficiently supported, by comparing the said Letter of the 20th of *August*, with the Letters wrote by the said *Kelly* to the Lord *Townshend* and Mr *Delafaye*, during the Time of his Confinement.

IV. I do not apprehend, that any Proof has been offer-^{Anno 9. Geo. 1.}
 ed to support what has been so much insisted on, and justly
 esteemed essential to the Charge, that the Bishop of *Roche-*^{1723.}
ster dictated the Letters of the 20th of *April*; but it has ap-
 peared, I conceive, that there has been no Intimacy between
 the Bishop and the said *Kelly*; and the Testimony of the
 Bishop's Servants, concurring with the Evidence given on
 that Head by the Persons that *Kelly* lived in the strictest
 Correspondence with, leaves, to the best of my Judgment,
 no Room to doubt, but that the Acquaintance between them
 was slender and publick; and to suggest from thence, that
 the Bishop dictated the Letters of the 20th of *April*, when
 it appeared that, for many Days before, he could not possibly
 see the said *Kelly*. is, in my Opinion, repugnant to Reason,
 and contrary to Justice.

Wharton.

On the 20th of *May*, the Lords read the second Time
 a Bill from the Commons, intituled, *An Act for granting an*
Aid to his Majesty, by laying a Tax upon Papists. And a Debate on a Bill to
 Motion being made, That the said Bill be committed, and raise 100,000 l.
 the Question being put thereupon, it was carried in the Af- on Papists, &c.
 firmative, by 57 against 42; Nine of which last enter'd
 their Dissent, viz. The Earls of *Scarfsdale*, *Litchfield*, *Straf-*
ford, *Uxbridge*, and *Pomfret*, and the Lords *Bingley*, *Foley*,
Gower, and *Albarrabam*.

The next Day the Lords went into a Committee upon the
 said Bill, and a Rider being offer'd to be added to it, for The Scots excep-
 making the *Scots Roman Catholicks* and *Nonjurors* to contri- tuted out of the
 bute towards the said Tax; the same was rejected. A^d.

May 12. The Bill was read the third Time; and a Mo- Debate on the
 tion being made that the same do pass, it was strongly op- 3d Reading of the
 posed by the Earl of *Strafford*, Lord *Trevor*, Earl *Cowper*, said Bill.
 Lord *Bathurst*, and Lord *Bingley*, who represented, E. of *Strafford*.
 That this Bill was downright Persecution; That it was a fourth Ld *Trevor*.
 Bill to inflict Pains and Penalties in an unprecedented Manner: E. *Cowper*.
 But they were answered by the Lord *Townshend*, Lord *Carteret*, Ld *Bathurst*.
Earl Cadogan, Bishop of *Hereford**, *Earl of Macclesfield*, Ld *Bingley*.
 Earl of *Ilay*, and the Duke of *Newcastle*, 'That the Pa- Ld *Townshend*.
 pists had incurr'd far greater Penalties, so that this Bill was Ld *Carteret*.
 rather an Indulgence than a Persecution.' These were re- E. *Cadogan*.
 ply'd to by the Earl *Cowper*, who suggested, 'That what Bp of *Hereford*.
 ever Glofs was put upon this Law, it would always be look- E. of *Macclesfield*.
 ed upon as Persecution by those, at least, who were to be E. of *Ilay*.
 affected by it, and be punished for other People's Crimes; D. of *Newcastle*.
 and what Hardships the *Protestants* Abroad might suffer,
 when we persecuted the *Roman Catholicks* at Home, he left
 to their Lordships Consideration: That he was informed,

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* Dr Benjamin Hoadley.

Anno 10. Geo. I. 1723-24. that the King of *Spain* and the Regent of *France* had used their good Offices in Behalf of those of their own Religion amongst us, and as, on the other Hand, those two powerful Princes had given undoubted Proofs of their firm Friendship to his Majesty, in discovering and quashing of the late Conspiracy, so they could not but think themselves indifferently required for it, if this Bill should pass into a Law.' His Lordship added, 'That no State ever got any Thing by persecuting its Subjects, of which he gave several Instances, and, in particular, shew'd the ill Effects of Persecution in *France*, which had drove away the wealthiest of their Merchants and most industrious Artificers; urging, that this Bill might, in like Manner, force the *English Roman Catholics* to leave the Kingdom, and carry Eight or Nine Hundred Thousand Pounds into Foreign Countries.' For all these Reasons his Lordship was for rejecting the Bill; but the Question being put upon the Motion for passing the same, it was resolved in the Affirmative,

Content	48	} 69	Not-Content	37	} 55
Proxies	21		Proxies	18	

Dissent against
the passing it.

Upon this the following Lords enter'd their Dissent, *viz.* *Uxbridge, Bingley, Gower, Foley, Ashburnham, Lechmere, Litchfield, Scarsdale, Montjoy, Pomfret, Hay, Fran. Cestriens, Willoughby de Broke, Strafford, Cowper, Weston, Coventry, Bathurst, Tadcaster.*

The Bills against
Plunket, Kelly,
and the Bishop of
Rochester re-
ceive the Royal
Assent.

May 27. The King came to the House, and having given the Royal Assent to the Bills against *Plunket, Kelly*, and the Bishop of *Rochester* *, prorogu'd the Parliament to the 2d of *July*; and, on the 3d of *June*, embark'd on a Visit to his *German* Dominions.

* On the 18th of June the Bishop, accompanied by his Son-in-Law, Mr Morrice, and his Daughter, embark'd on Board the *Aldborough* Man of War, and, on the 21st, landed at *Calais*, where being inform'd that the late Lord Viscount *Bolingbroke* was just arrived to embark for *England*, that Prelate wittily said, 'THEN I AM EXCHANG'D.'

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## The SECOND SESSION of the SECOND PARLIAMENT of King GEORGE I.

THE King came to the House on the 9th of *January*; and having open'd the Session with a Speech, \* the Lords unanimously voted the following Address of Thanks.

*Most*

\* See the Speech in *Chandler's History of the Commons.* p. 319.

Anno 10. Geo. I.

1723-24.

*Most gracious Sovereign,*

WE your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, humbly return your Majesty the Thanks of this House for your Majesty's most gracious Speech from the Throne; and for your gracious Acceptance of our sincere Endeavours for your Service during the last Session. We cannot in Justice but acknowledge, that the prosperous and flourishing Condition, and the present Tranquility of the Kingdom, are the natural Effects of your Majesty's wise and steady Government. Your Majesty's powerful Influence in all your foreign Negotiations, towards the Preservation of the general Peace, gives us very great Satisfaction. We beseech your Majesty to believe nothing can be dearer to us, than your Honour; and that we cannot think any thing of greater Importance, than the enabling your Majesty to maintain the Tranquility of Europe.

We humbly beg Leave, with Hearts full of Duty and Gratitude, to acknowledge your Majesty's paternal Care and Tenderness, in desiring the Ease of your People from all unnecessary Burdens, and your inexpressible Goodness in declaring from the Throne your full Satisfaction, that the Trade and Wealth of your People are happy Effects of the Liberties they enjoy; and that the Grandeur of your Crown consists in the Prosperity of your Subjects. We beg your Majesty to believe, that nothing shall be ever wanting on our Part, that can tend to the Increase of your Majesty's Happiness and Glory; and that we are firmly and unanimously resolv'd, with our Lives and Fortunes, to maintain our present happy Establishment, as the only solid Foundation, upon which we can hope for the quiet Enjoyment of our Religion, Laws, and Liberties.

*His Majesty's Answer was as follows:**My Lords,*

I Give you my hearty Thanks for this dutiful and loyal His Majesty's Address. Your affectionate Concern for my Honour and Happiness is very acceptable to me. Be assured it shall be my constant Care to preserve the Rights and Liberties of my People.

Then the House adjourn'd to the 15th.

Feb. 25. The Order of the Day being read for taking into Consideration the several Lists of Certificates of written Protections, delivered at the Bar by the Secondaries of the

two

Anno 10. Geo. I. two Compters in London, the Under-sheriff of *Middlesex*, and the High-Bailiff of *Westminster*, which are entred in their respective Offices; the standing Order of the House of the 15th of *April*, 1712, in relation to certain written Protections

**1723-24.**  
 All written Protections, contrary to the Standing Order of *April* 15, 1712, declared void. *viz.* That all the said written Protections are null and void; and all other Protections, which shall be, at any time hereafter, given contrary to the said standing Order, shall be taken to be null and void; and that no Sheriff, Under-sheriff, Deputy-Sheriff, Secondary, or other Officer, whose Duty it is to issue any legal Process, or to execute the same, or cause the same to be executed, shall receive or allow, or have any Regard to, or make any Entry in his Office, of any written Protection, which is or shall be signed, or pretended to be signed, by any Lord of this House; but that nothing herein contained shall be understood in any sort to derogate from the ancient Privilege of the Lords of Parliament, with respect to their menial Servants, and those of their Family, as also those employed necessarily and properly about their Estates, as well as their Persons, or to expose to Arrests those, who are really Servants to them, as aforesaid.

Then it being moved, That the same be made a standing Order; ordered, That on *Saturday* next the House will take the said Motion into Consideration: Accordingly on the 29th of *Feb.* the House proceeded to take into Consideration the above mention'd Motion; and the same being read, was ordered to be entred on the Roll of the standing Orders of the House, and to be forthwith printed and published, and affixed on the Doors belonging to the House, and *Westminster Hall*.

Debate on the  
 Mutiny-Bill.  
 Ld Trevor.

*March* 16. The Lords being in a grand Committee on the Bill, *For punishing Mutiny and Desertion*, there arose a Debate, upon the Motion made by Lord *Trevor* for leaving out of the Number of the Land Forces to be continued, the 4000 additional Men raised the Year before. His Lordship represented, ' That the Conspiracy mentioned in his Majesty's Speech at the opening of the last Session of Parliament, which was the Occasion of this Augmentation of the Land Forces, being happily extinguish'd, and thereby the Cause of raising that additional Number removed, there was not the least Pretence for continuing that Number. That the keeping on foot a greater Army in Time of Peace, than was absolutely necessary for the Security of the King's Person and Government, was very dangerous to our happy Constitution: And, considering the great Tranquility we enjoy'd, both at home and abroad, he could not but apprehend the Number of regular Forces, allowed by this Bill,

to

to be much greater than was necessary for that End. That if so great an Army was allowed to be continued, in our present happy Circumstances, a standing Army would thereby become an essential Part of our Constitution, since the Reasons for keeping it up in Perpetuity would grow stronger every Year, and in every succeeding Reign: For on the one hand, it cannot, with any Probability, be foreseen or expected, that in any future Time, there will be less Reason to be given, than at present, for justifying the Necessity of keeping up so great an Army, there being now as little Danger to our present happy Establishment, to be feared, either from Insurrections at home, or by any Disturbance or Invasions from abroad, as the Nature and Instability of human Affairs will allow of. And on the other hand, if so numerous an Army be at present allowed of in Parliament, no Argument can hereafter be urged, for the reducing the Number in any future Reign, but what will seem to carry with it too great a Distrust of the Prince then on the Throne, and will be construed to imply, that the same Confidence is not to be reposed in him, as in his Predecessors. His Lordship added, 'Twas not out of any Distrust he entertain'd either of his Majesty or his Ministers, that he was for reducing Part of the Army: That, on the contrary, he was fully convinced his Majesty will never make an ill Use of his Power, of which they had a sure Earnest in the Moderation with which his Majesty had govern'd hitherto: But as they could not promise themselves and expect, That so good and so just a King should always fill the Throne, it was Prudence early to prevent the Inconveniences and Dangers to which our excellent Constitution and Liberties should be exposed, in case, in any succeeding Reign, an ambitious Prince, and ill Ministers, should have so great a Number of Troops at their Disposal. That it was notorious, That all the States of *Europe*, that have lost their Liberties, have been enslaved by their own Armies, whose Officers and Commanders growing every Day in Power, do, at last, turn it against those from whom they had at first their Commissions; of which we had a fatal Example in *England*, still fresh in our Memories, in the Person of *Oliver Cromwell*. That besides the 4000 additional Men, the regular Forces were double the Number of those kept on foot, after the Peace of *Ryswick*, in the Reign of King *William* of glorious Memory; and more numerous, by one third, than in the late Queen's Reign after the Peace of *Utrecht*; that they are more than sufficient to secure the Government, against any sudden intestine Commotion; which is the less to be apprehended by Reason of the general Affection which the People had lately shewn in taking



**Anno 10. Geo. I.** the Oaths, tho' many of them that took them were not required to do it, by the Act passed the last Session; and he was confident, that except a few Persons of desperate Principles and Fortunes, who might hope to fish in troubled Waters, there was no-body in *England*, that had any thing to lose, that wish'd for a Revolution. That if we look'd abroad, it appear'd, that by the happy Influence of his Majesty's wise Counsels, and the good Alliances that had been enter'd into and cemented, all *Europe* enjoy'd a profound Peace, which, in all Probability would be lasting: But that in case of a Rupture with any neighbouring Prince, our Fleet, which was certainly the most numerous, and the best in all Christendom, would defend us against any foreign Invasion or Insult. That the Pay of the 4000 additional Men, amounted to a good Sum of Money. That, indeed, at another Juncture, that Expence might easily be borne; but that in the present Circumstances, when the Nation is involved in so great a Debt, and groans under the Load of heavy Taxes, this additional Charge is very considerable. That his Majesty, in his gracious Speech, at the opening of this Session of Parliament, having, in a particular Manner recommended to the House of Commons, the putting the National Debt in a Method of being gradually reduced and paid: 'Twas with the greatest Satisfaction he took Notice, That a Progress had already been made in that great and important Undertaking; and that, in order to improve that good Beginning, not only the Pay of these additional Forces, but also all other needless Expences, ought, in his Opinion, to be apply'd to the Increase of the Sinking Fund.' His Lordship concluded as he had begun, with most earnest Professions of his sincere and entire Affection for his Majesty's sacred Person and Government, and for his Royal Family, on whose Prosperity, under God, absolutely depend both our present Felicity, and the Preservation of our Laws, Liberties, Properties, and holy Religion.

**Ld Townshend.**

The Lord *Townshend* answered Lord *Trevor*, and said, 'That he agreed with that noble Lord, in some Parts of his Speech, but was very sorry he differed from him in others. That he was thoroughly persuaded of his entire Affection to his Majesty's Person, and the present happy Settlement; nor did he, in the least doubt, but that he saw with Pleasure, the Progress that had already been made towards reducing the National Debt: But that, at the same time, they ought to consider, That as the happy Tranquility we at present enjoy, is, in some measure, owing to the Strength of the Government, so it was Prudence not to weaken that Strength, because the same affects publick Credit, which being founded on the Security of the Govern-

ment, if that Security was rendred precarious, they would Anno 16. Geo. 1.  
soon see the Funds and Stocks fall 10 or 12 *per Cent.* 1723-24.  
which would render the Reduction of the National Debt altogether impracticable, since it was impossible to reduce that Debt, otherwise than by publick Credit. That it was notorious, that before the last Augmentation of regular Forces, the Government could not form and march a Body of 3 or 4000 Men, against any sudden Attempt, either at Home, or from Abroad, without leaving the King's Person, the Royal Family, the Capital of the Kingdom, and the fortified Places exposed; and therefore the said Augmentation was become absolutely necessary to prevent these Dangers and Inconveniencies. That the Number of Troops now on foot was not so great as to afford any just Ground of Jealousy, since the present Forces are much inferior to those the Crown had formerly. That by the ancient and *Gothick* Constitution of the Government, the King had at his Disposal the Militia of the Realm, which chiefly consisted in Archers, who were kept in constant Discipline and Exercise, the Memory of which is still preserved, there being almost in every Village a Place called *But-Lane*. That the Invention of Fire-Arms had made a great Alteration in the ancient Constitution; and, instead of Archers, the Crown raised as many regular Troops as were thought necessary, upon any Emergency. That Queen *Elizabeth*, who had many Enemies both at Home and Abroad, constantly kept a considerable Body of Troops in the *Netherlands*, without any Contradiction from her Parliaments, and thereby maintain'd herself on the Throne, and overcame all her Enemies. That if King *Charles I.* had steer'd the same Course, he might, in all Probability, have preserved both his Crown and his Life, since he lost both, only for a want of a sufficient Force to suppress Faction, which was the principal Source of all the Calamities and Enormities, in which the Nation was afterwards involved. That upon the Restoration of King *Charles II.* they who, at that Time, had the Management of Affairs, did not think it proper to keep up a great Number of regular Troops, and therefore chose to restore to the Crown its ancient Power over the Militia of the Kingdom; but there was a *Secret* in that. That King *James II.* had an Army of 20000 Men, which would have secured to him the Crown, had he not given a general Disgust, by endeavouring to subvert the Constitution in Church and State. That in the Reign of King *William*, when the Parliament disbanded the Army after the Peace of *Ryswick*, they fell upon a Project to secure the Government, which was to discipline the Militia; but that they soon perceived the Unprofitableness of that Scheme,

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**Militia** proving a great Burden to the People, and of no Service to the Government. That the Reduction of the Army had then a double ill Effect; for it obliged King *William* and his Ministers to enter into a Treaty of Partition; and encouraged *France* to break that Treaty, which occasioned a second War, and was the Source of two Thirds of that heavy Debt under which the Nation labours at this Day. That the disbanding of the Army had almost the same ill Effect in the Reign of the late Queen, having encouraged *Lewis XIV.* to furnish the *Pretender* with a Land Force and a Fleet to invade these Kingdoms. That if at present they weaken'd the Hands of the Government, we should be exposed to the like Insults. That if our Enemies may be credited, in an Affair, in which it is their Interest to speak Truth, they seem'd confidently assured of Success, in their Design of overturning the Government, provided they had only an Assistance of 3 or 4000 Men from Abroad; and that considering the Method now practis'd in Embarkations, how strong soever our Fleet may be, it was impossible to hinder a foreign Prince, who should have a Mind to undertake it, to throw such a Number of Men upon *England*. That the constant Tenor of his Majesty's Administration, ought to convince every Body, That by the continuing the Number of regular Forces now on foot, his Majesty and his Ministers have nothing in view but the publick Safety and Security, and thereby to give the People an Opportunity of improving their Trade, as the only Means to retrieve their former Losses.

D. of Wharton.

The Duke of *Wharton*, who reply'd to Lord *Townshend*, said, 'That tho' he was sensible whatever he could offer, would have but little Weight, nevertheless, as the Matter under Debate was of the last Importance, and highly concern'd the Fundamental Constitution, he thought it incumbent upon him, as a Member of that August Assembly, to deliver his Opinion; hoping, that any Mistake he should commit, would be excus'd upon Account of his Want of Experience: That he wonder'd the noble Peer who spoke last, should suggest, that without the additional Troops rais'd last Year, a Body of 3000 Men could not be drawn together; That he might easily be contradicted, since, before the raising of those Troops, we had seen near the Capital of the Kingdom, a Camp of between 3 and 4000 Men, consisting only of the King's Guards, which was sufficient to secure the Government against any sudden Attempt: That he thought it no less strange, that in an Affair of so great Importance, and in the Supreme Council of the Realm, any Mention should be made of the Opinion of Enemies; that by this, he supposed, were meant the Abstracts of some intercepted Letters, and anonymous Intelligence, that were printed

printed last Year ; on which he thought no Stress ought to be laid, but rather be look'd upon as the empty Imaginations of disaffected Persons, who through the natural Propensity of all Men to believe what they wish for, easily deceive themselves, and fondly entertain with vain Hopes those they endeavour to engage in their Cause : That considering the present great Tranquility at Home, and the happy Situation of Affairs Abroad, there seem'd to be no Occasion for keeping up so great a Number of Forces : That by his Majesty's Councils, and powerful Influence, a general Peace was establish'd in *Europe*, which, in all Appearance, would last many Years : That some Accidents which, 'twas feared, might have disturb'd it, had had contrary Effects : That the Death of the Regent had made no Alteration in *France*, for Things did run there in the same Channel, and the Duke of *Bourbon*, who had succeeded the late Duke of *Orleans* in the Administration of Affairs, seem'd resolv'd to cultivate the Friendship and good Intelligence his Predecessor had established between the two Crowns : That, in relation to *Spain*, King *Philip's* Abdication would prove advantageous to the Peace of *Europe*, because the *Italian* Faction, and Ministry, which espoused the *Pretender's* Cause, were thereby laid aside : And as for the Emperor, he hoped they had nothing to fear from him, unless he would quarrel with us, for our Kindness and Good-Nature to him, in suffering his establishing an *East-India* Company at *Ostend*, to the Prejudice of our own Company. But nevertheless, he hoped a good Correspondence would still be maintain'd between the two Courts : That thus there was nothing to be fear'd from Abroad, and yet much less at Home : That the noble Lord who spoke before him, had run over a great Part of our *English* History, and had endeavour'd to shew the Difference between the ancient *Gothick* Government, and our modern Constitution : That he would not follow him close through his long Account of Bows, Archers, and Fire-Arms ; but would content himself with taking Notice, that, according to that noble Peer, the Power of the Militia was anciently, and still remained in the Crown ; but that it was observable, that in some former Reigns, regular Troops supply'd the Place of the Militia ; and in others, Funds were provided to discipline the Militia, and render them useful, in order to supply the Wants of regular Troops : But that at this Time, when the Crown is possess'd of as much Power over the Militia as ever, if so great a Number of regular Forces be allow'd to be kept up, the Fundamental Constitution will be entirely overturn'd, since thereby an additional Strength is given to the Crown, without any Equivalent to secure the Rights and Liberties of the Subject : That our Ancestors

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having ever judg'd the Militia sufficient to secure the Government, we ought not to deviate from that wise Institution without evident Necessity : That the Militia are not so useless, nor so much to be despised, as some would pretend, since they did notable Service during the last Rebellion, even in some Counties the most disaffected to the present Settlement ; and, if Care was taken to discipline them well, he did not doubt but they might be made more useful : That the Expence of raising and exercising the Militia might be greater than of regular Forces, but that as the Danger to our Liberties would be much less from the Militia, so would the Expence be more easily borne by the People : That, in Justice to the Officers of the Army, he would readily acknowledge, that many of them had appear'd zealous Defenders of the Liberties of their Country, and had laid the Foundation of our present Happiness, by refusing to concur in the Designs of the late King *James II.* But that he had heard wise Men say, that if that Prince had turn'd out the old Officers he could not trust, and made new ones from among the common Soldiers, King *William* would not easily have brought about his Enterprize, at least there would have been more Blood shed : That after all, standing Armies are inconsistent with a Free Government : And that hereafter an ambitious Prince, and ill designing Ministers might make Use of them to invade our Liberties : That the single Instance of *Oliver Cromwell*, who came to the House of Commons, and turn'd out with open Force the very Men from whom he had his Authority, was an Example, which they ought ever to have before their Eyes : That tho' they had nothing to fear under his Majesty's auspicious Reign, or from the illustrious Princes of his Royal Family ; yet it cannot be expected that the Throne shall always be fill'd by such Princes : That besides, we are not so happy as to have the King always amongst us ; That at least once every two Years his Majesty goes over to his Dominions abroad ; that for his Part, he was so far from finding Fault with it, that he rather thought it for our Advantage, because he could from thence have a nearer Prospect of the Affairs of *Europe*, and watch for our Security : But that, on the other Hand, if it should happen, that during his Majesty's Absence the Absolute Command of the Army shall be delegated to one single Person, our Liberties and Properties might be in great Danger, because such an Authority is equal to that of a Stadtholder in *Holland* : That he was both surprized and sorry to see that a Lord, who had so great a Share in the Administration, should in so solemn and important a Debate, fetch Arguments from *Exchange-Alley*, and thereby put our most essential Concerns in Competition with those of a few Stock-Jobbers ;

Jobbers : That nothing, in his Opinion, could more effectually keep up and advance Publick Credit, than the Confidence his Majesty would seem to repose in the Affections of the People, by disbanding Part of the Army ; and that the same would have the like good Effect with Foreign Princes : Whereas if the Court seem'd to think so great a Number of Troops necessary in Time of Peace, it visibly imply'd a Distrust of the Affections of the People, which might increase the Disaffection at Home, and lessen his Majesty's Credit and Interest Abroad.

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The Lord *Bathurst*, who spoke next, observ'd, ' That Lord *Bathurst*. what distinguishes most a good Prince from a Tyrant, is that the latter never thinks himself safe, without a great Number of Troops, whereas the first intirely confides in the Affections of his Subjects : That this was the Course which that wise Princess Queen *Elizabeth* steer'd ; for tho' she had many Enemies, both at Home and Abroad, yet she never kept standing Forces in *England*, but defeated all the Attempts against her Person and Government with her Militia, and her Fleet : That upon King *Charles* the Second's Restoration, that Prince had a very plausible Pretence to have an Army ; but his Ministers the Earls of *Southampton* and *Clarendon*, great Patriots as well as great Politicians, considering the Calamities an Army had brought upon the Nation under *Cromwell*, wisely judg'd that standing Forces are inconsistent with the Liberties of *England* ; and that the Power of the Militia, with the Addition of Horse and Foot-Guards, were sufficient to secure the King's Person and Government : That, indeed, they had been told by a noble Lord of the other Side, That there was a Secret in it : That, for his own Part, he could not guess what that Secret could be, but he wish'd there might be no Secret, at present, in the keeping up so great a Number of Forces : That the late Revolution was miraculously brought about, considering the great Number of Forces King *James* II. had on Foot ; but as Miracles do not happen every Day, neither is it Prudence to expect them, but rather to endeavour to prevent such Dangers, as would infallibly have come to pass, had not Providence visibly interposed : That he had a very good Opinion of many Officers in the Army, and had an Esteem for them, not only as gallant Soldiers, but as good *Englishmen* that would not enslave their Country ; but yet he would not trust his Liberty or Property in the Hands of Men that might take them away, if they pleased ; for he knew no great Difference between a Man being a Slave, and being in the Power of them that can make him one : That of all Men, Soldiers are known to be ambitious of advancing, and exercising their Authority ; and that the Example of *Cromwell's* Army, who

turned

Anno 20. Geo. I. turned out the Parliament that raised them, ought to be a constant Warning against Regular Troops.

1783-24-

Lord Carteret.

Lord Carteret urged, ' That the publick Tranquility proceeded from the Security of the Government, and as this Security was in some Measure owing to the additional Forces, the latter were become necessary to preserve that happy Tranquility. His Lordship shew'd the great Advantages that flow from the Security of the Government ; the Regard of Foreign Princes and States for the Crown of *Great Britain* ; the Weight of his Majesty's Councils in Negotiations Abroad, which had establish'd a general Peace in *Europe* ; the Restoration of Credit at Home, which had furnish'd the Means of putting the Publick Debts in a Method of being gradually reduced ; but if that Security was removed, it would immediately affect publick Credit, and thereby the Opportunity would be lost, for easing the Nation of that immense Load of Debts it labours under : That he did not deny what a noble Peer had advanc'd, That before the last additional Forces were raised, there had been a Camp of 3 or 4000 Men in *Hyde-Park* ; but that these were necessary for the King's Guard, and the Defence of the City of *London*, and therefore could not be spared to march either against an Enemy that should invade us, or to suppress any sudden Insurrection at Home, without exposing his Majesty's Person, the Royal Family, and the Capital of the Kingdom. That the present happy Situation of Affairs in *Europe* seem'd, indeed, to promise a lasting Peace ; but that human Things are subject to so unexpected Vicissitudes, that the greatest Calms are often disturb'd on a sudden by violent Storms. That in Case of a Rupture, it would be an easy Matter for an Enemy to throw in a Body of Troops upon us, to raise a new Rebellion in Favour of the *Pretender*, whose Friends, 'tis to be feared, are still but too numerous, and tho' quiet at present, by reason of their late Disappointments, yet are ever ready to throw off the Mask, as soon as they shall see themselves supported by a Foreign Prince. That whatever Force we may be supposed to have at Sea, it is hardly possible to prevent a sudden Invasion : That tho' King *James II.* had a numerous Fleet at the Mouth of the *Thames*, yet the Prince of *Orange* pass'd by undisturb'd, and landed his Army at *Torbay* : That when, in 1708, *Lewis XIV.* undertook to set the *Pretender* on the *British* Throne, his Fleet, notwithstanding all the Efforts we could make, carried their main Design, which was to reach *Scotland*, where they might have landed ; and all that our Fleet could do, was only to take a straggling Ship : That when Cardinal *Alberoni*, in 1719, form'd the Project of an Invasion upon *Great Britain*, he landed some of his Men without Opposi-

sition in *Scotland*; and had it not been for the contrary *Anno 10. Geo. I.*  
 Winds that detain'd his main Fleet on the Coasts of *Spain*, 1723-24.  
 he would, in all Probability, have landed a much greater  
 Force in *England*: That the additional Troops were not  
 indeed sufficient to oppose any considerable Force sent  
 against us by a powerful Neighbour; but that, however,  
 they were sufficient to defeat any unavow'd Attempt, and to  
 make a Stand against any sudden Invasion, and thereby give  
 Time for reinforcing the Army: That as the continuing  
 these additional Troops would shew the Confidence the Na-  
 tion repos'd in his Majesty, and the good Opinion the People  
 had of the present Government, so the disbanding of them  
 would have the contrary Effect; and therefore he was for  
 keeping them up.

The Earl of *Strafford* said, ' They were oblig'd to that E. of *Strafford*.  
 noble Peer for delivering his Meaning so plainly, that it  
 was impossible to mistake it. That according to him, the  
 present Number of Forces were *essential* to our *Security*,  
 and therefore might be said to be *essential* to our *Constitution*.  
 Hereupon the Lord *Carteret* explain'd himself, and said, *Ld Carteret*.  
 ' That in our present Circumstances, he thought the Num-  
 ber of 18000 Men absolutely necessary.' My Lord *Strafford*  
 replied, That the being absolutely necessary was much the  
 same with being *essential*: That since the Forces now on  
 foot were made the Cause of our Tranquility; and it was  
 infer'd from that Position, that they were absolutely neces-  
 sary to secure that Tranquility, it is plain they are thereby  
 made an *essential* Part of our Constitution. For as 'twas  
 own'd, that we had nothing to fear either at Home or A-  
 broad, he could not foresee that any Argument hereafter  
 could be urg'd for reducing the present Number; but it  
 was rather to be apprehended, That plausible Pretences  
 might be found for increasing them upon the least Appear-  
 ance of real or feigned Danger. That in case of an Insur-  
 rection at home, or an Invasion from abroad, the Army  
 might easily be augmented, as was done in 1715, with  
 wonderful Expedition and Success; and that to the Praise  
 of a late Minister, [*the late Earl of Sunderland*] it must be  
 own'd, that as soon as the Occasion, for which those addi-  
 tional Troops were rais'd, was over, he caus'd them to be  
 disband'd. That in that Rebellion the Militia performed  
 notable Service, even in a County thought to be generally  
 disaffected. That by disbanding the additional Troops, and  
 thereby easing the Nation of Part of the heavy Burden it  
 labours under, the King would gain the Affections of his  
 People, which would be a greater Security at home, and  
 procure more Regard abroad, than the inconsiderable Rein-  
 forcement of 4000 Men, the continuing of which would be



Anno 10. Geo. I. a shrewd Indication of the Unsettledness of the Government, and shew a Jealousy of the People.

1723-24.

D. of Argyle.

The Duke of *Argyle* reply'd, ' That this Debate having taken up much Time, he would contract within a narrow Compass what he had to say. That the chief Argument to support the Motion for disbanding the additional Troops, was, the Danger of a standing Army to a free Government. That he did allow there was indeed some Danger, but not so great as to over-balance the Good, which this small Number of Troops may do, in the present Situation of Affairs. That there is a vast Difference between an Army established in Perpetuity, and a temporary Army. That if the present Number of standing Troops were voted to be perpetual, there might, indeed, be great Danger to our happy Constitution; but as they are only continued from Year to Year by Parliament, there's little or nothing to be apprehended. That it is not many Years since we have seen an *English* Army refuse to concur in the Overthrow of the fundamental Laws of their Country; and it is to be hoped they never will. That, however, it requires some time to model an Army, and to gain the Officers: And if, in that Interval, it should be perceiv'd that sinister Designs were carrying on against Liberty and Property, by means of the Army, the Parliament may, in such a Case, apply a speedy Remedy, by reducing it; and then he would be the first Man that should give his Vote for it. That the Expence of maintaining the additional Forces, was inconsiderable, and much less than the Charge would be, in case of Necessity, of sending for Troops from *Holland* or *Ireland*. That foreign Auxiliaries are always, not only more expensive, but more dangerous, or grievous to the People, because they cannot be kept in so strict Discipline, as in their own Country. That the disbanding so great a Number of Troops after the Peace of *Utrecht*, and not having a sufficient Force to secure the Government, upon his Majesty's happy Accession, had been the principal Cause of the Rebellion in the Year 1715, the Friends of the *Pretender* having been thereby encouraged to shew themselves. That if he saw the Nation unanimous in Opinion, That our Laws, Liberties, Properties, and holy Religion, entirely depend on the present happy Settlement, and on the Protestant Succession in his Majesty's Royal Family, he would readily give his Vote for reducing the Army: But he was afraid, some People so strenuously insisted on the disbanding of the additional Troops, with no other Design than to weaken the Government, and thereby have an Opportunity of involving their native Country in new Troubles; and therefore those noble Lords who had spoke for the Reduction, would

would do well, when they went down into their several Countries to assure the People, with whom, no doubt, their Reasons would not fail having great Weight, that their Liberties and Properties were entirely safe under his Majesty's auspicious Government.' Anno 10. Geo. 1.  
1723-24.

The Earl of *Strafford*, who thought himself glanc'd at, Earl of *Strafford*, declared, ' That he utterly detested the very Thoughts of a Civil War ; which, let it end which way it will, is always fatal to the Country in general, and to all private Persons.'

Then the Bill was read the third Time, and the Question *The Mutiny* being put, That the same do pass, it was resolv'd in the Bill pass'd. Affirmative by 77, against 22.

### *Dissentient*

I. Because the keeping on Foot a greater Army in Time of Peace, tho' by Consent of Parliament, than is absolutely necessary for the Security of his Majesty's Person and Government, is, we conceive, very dangerous to our happy Constitution ; and we cannot but apprehend, the Number of Men allow'd by this Bill to be much greater than is necessary for that End.

II. Because the Conspiracy mention'd in his Majesty's Speech at the opening of the last Session of Parliament, which was the Occasion of an Addition of about 4000 Men, is now at an End ; and therefore the Cause of raising that additional Number being perfectly removed, there does not appear to us the least Colour of Reason for continuing of that Number.

III. Because, as we conceive, the continuing so great a Number of Men this Year, will be a Precedent of too great Weight for continuing the same Number of Troops in Perpetuity ; for we cannot, with any Possibility, foresee or expect that, in any future Time, there will be less Reason to be given, than at present, for justifying the Necessity of keeping up so great an Army ; there being at this Time, in our Opinion, as little Danger to our present happy Establishment, to be feared either from Insurrections at Home, or by any Disturbance or Invasion from Abroad, as the Nature and Instability of human Affairs will well allow of : And we cannot think, the Fears of remote or imaginary Dangers a sufficient Argument for so great a present Mischief as such an Army must bring upon the Kingdom, not only from the great Charge and Expence of maintaining them, when we are involved in so great a Debt, but also from the Jealousies which may from thence arise in the Minds of many of his Majesty's good Subjects of their Liberties thereby being endanger'd ; and we cannot but be apprehensive, that if so numerous an Army be agreed to in Parliament for some Time

Anno 11. Geo. I.  
1724

longer, no Argument can hereafter be urg'd for reducing the Number in any future Reign, but what will seem to carry with it too great a Distrust of the Prince then in Possession of the Throne ; and will be thought to imply, that the same Trust and Confidence is not to be reposed in him as in his Predecessors ; and this may discourage some Persons hereafter from giving their Advice to the Crown, upon this most important Subject, with that perfect Freedom which ought ever to maintain and exert itself in the Debates and Resolutions of this great Council.

*W. Ebor', Strafford, Trevor, Foley, Compton, Bathurst, Wharton, Weston, Aylesford, Bristol, Bingley, Scarf-dale, Fran. Cestriens', Guildford, Litchfield, North and Grey, Boyle, Gower, Montjoy, Uxbridge.*

The Parliament  
prorogued.

*April 24.* The King came to the House, and prorogued the Parliament to the 4th of *June*.

\*\*\*\*\*

### *The THIRD SESSION of the SECOND PARLIAMENT of King GEORGE I.*

**O**N the 12th of *November* the King came to the House of Lords, and open'd the Session with a Speech \*, as usual : And in Answer thereto the Lords presented the following Address the next Day :

Address of  
Thanks to the  
King for his  
Speech at open-  
ing the third Ses-  
sion.

*Most Gracious Sovereign,*  
**W**E your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, beg Leave to return your Majesty our most humble and hearty Thanks for your Majesty's most gracious Speech from the Throne. Peace with all Powers Abroad, perfect Tranquility and Plenty at Home, and an uninterrupted Enjoyment of all our Rights and Liberties, are such inestimable Blessings to us, as leave us no Room to wish for any Thing more to complete our Happiness, but for your Majesty's long Life and happy Reign over a most faithful and obedient People. We think ourselves in Duty bound to acknowledge this prosperous Situation of Affairs, to be wholly owing to the Blessing of God on the wise Measures your Majesty has pursued, for the true Interest of this Kingdom.

\* Your

\* See Chandler's History of the House of Commons, p. 324.

‘ Your Majesty’s tender and compassionate Concern and <sup>Anno 11. Geo. I.</sup>  
 ‘ Care for the Seamen, who have, by their Bravery, emi- <sup>1724-25.</sup>  
 ‘ nently distinguished themselves in the Service of their  
 ‘ Country, in all Parts of the World, cannot but encourage  
 ‘ all your Subjects to the strictest Performance of their Du-  
 ‘ ty; and we most humbly beseech your Majesty to believe,  
 ‘ that we shall at all Times exert ourselves, with the same  
 ‘ Zeal which has hitherto animated us in your Majesty’s Ser-  
 ‘ vice, for the Defence and Safety of the Nation, and that  
 ‘ our chearful Concurrence shall never be wanting, when-  
 ‘ ever it lies in our Power, to advance the true Interest of  
 ‘ the Publick, and promote your Majesty’s Glory.’

The King’s Answer was as follows :

*My Lords,*

“ I Thank you for this very loyal and dutiful Address. <sup>His Majesty’s</sup>  
 “ You may depend upon my steady Pursuit of such Mea- <sup>Answer.</sup>  
 “ sures only, as, by the Blessing of God upon my Endea-  
 “ vours, will most effectually secure the true Interest of all  
 “ my People; and that I shall at all Times esteem the In-  
 “ crease of their Happiness as the greatest Glory of my  
 “ Reign.”

On the 21st of *January* the House, after an Examination touching the granting written Protections, committed the Earl of *Suffolk* to the Tower of *London*, for having given several written Protections, in Breach of the Standing Orders, and to the Dishonour of the House, as likewise to the Obstruction of publick Justice. <sup>The Earl of Suffolk committed to the Tower for granting Protections.</sup>

*March* 18. A Bill, *For punishing Mutiny and Desertion*, being read the third Time, and the Question put, That the same do pass, it was resolved in the Affirmative.

*Dissentient*’

For the Reasons enter’d in the Journals the 24th of *Fe-* <sup>Protest against</sup>  
*bruary* 1717, the 21st of *December* 1721, the 16th of *Fe-* <sup>the Mutiny-Bill.</sup>  
*bruary* 1722, and the 16th of *March* 1723; which, we conceive, are much stronger against continuing the present Number of Forces, when Peace Abroad, and Tranquility at Home, are avowedly established on as solid and lasting a Foundation as the Nature of Human Affairs will admit.

*Scarfsdale, Bingley, Asbburnham, Compton, Wharton, Mont-joy, Boyle, Foley, Strafford, Fran. Cestriens’, Litchfield, Bathurst.*

*March* 20. Sir *George Oxenden* came to the Bar of the *E.* of *Maccles-*  
 House of Lords, and in the Name of the House of Com- <sup>field</sup> *impeach’d.*  
 mons, and of all the Commons of *Great Britain*, *impeach’d*

1725.

G g g 2

*Thomas*  
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Anno 11. Geo. I. *Thomas Earl of Macclesfield* \*, late Lord High Chancellor, 1725. of High Crimes and Misdemeanors.

Bill for regulating Elections in London.

Motion for asking the Judges Opinion thereupon passes in the Negative.

*April 13.* A Bill, *For regulating Elections † within the City of London, and for preserving the Peace, good Order and Government of the said City*, being read the third Time, it was proposed to ask the Opinion of the Judges, whether this Bill does repeal any of the Prescriptions, Privileges, Customs, or Liberties of the City of *London*, restored to them, or preserved by the Act passed in the second Year of King *William* and Queen *Mary*, for reversing the Judgment in a *Quo Warranto* against the City of *London*, and for restoring the said City to its ancient Rights and Privileges; which being objected to, and Debate had thereupon, the Question was put, Whether the Judges shall deliver their Opinions upon the said proposed Question; it was resolved in the Negative, by 83 against 24.

*Dissentient*,

\* On the 23d of January the Earl of Oxford and Lord Morpeth, Guardians of the Dutches Dowager of Montagu, a Lunatick, having presented a Petition to the House of Commons, complaining of the Deficiencies of the Accounts of the Masters in Chancery: And the King having, on the 9th of February, given Orders for Copies of several Reports, and other Papers relating to the said Masters, to be laid before the House; after taking the same into Consideration on the 12th, it was resolved to impeach *Thomas Earl of Macclesfield*, late Lord Chancellor, of High Crimes and Misdemeanors.——See the Proceedings thereupon in *Chandler's History of the Commons.* p. 337.

† The said Bill being pass'd into a Law, we refer our Reader to the Statute of XI. George I. Cap. 18; but it may be proper to take Notice of the Petition of the Freemen of London against it, which sets forth, ' That the said Bill takes away from great Numbers of the Freemen (other than Paupers and Nonjurors) their undoubted Rights of voting in their corporate Elections: That it destroys the former Qualification of a Voter in Wardmote Elections, and hath substituted a new and uncertain one, which they apprehend may be productive of great Disorders: That it leaves all the remaining Votes at the Mercy of the presiding Officer, who may declare as he is inclined, without granting a Copy of the Poll scrutinized, or giving any Account what Votes he allows or disallows: That it, in a Manner, abolishes the ancient Custom of Distribution of Freemen's personal Estates: That by the said Bill, the Commoners in Common Council, who are 234, may, tho' they are all unanimous, be restrained from applying to his Majesty, or either House of Parliament, upon any Occasion, how necessary soever; from issuing out of the Chamber one Farthing upon any Occasion, how just soever; or seal any City Lease, tho' upon Terms ever so advantageous, or come to any Resolution whatsoever, without the Consent of the Mayor and Aldermen, or the Majority of them, tho' there be no more than three of them present, and yet lays no Restraint upon the Power which the Lord Mayor and Aldermen exercise themselves over the Publick Purse and the Seal: Therefore the Petitioners entreat their Lordships to take the Premises into Consideration; to ascertain the Qualifications of Voters in Elections, and the Manner of Elections; to put a Check upon the presiding Officers; and to establish the good Government and ancient Customs of the City in such Manner, as may be compatible with their Rights and Privileges.

*Dissentient*Anno 11. Geo. I.  
1725.

I. Because it being enacted and declared by the Act mentioned in the Question, that the Mayor, Commonalty, and Citizens of *London*, shall for ever hereafter remain, continue, and be, and be prescribed to be, a Body-Corporate, *in Re, Facto, & Nomine*, by the Name of Mayor, and Commonalty and Citizens of the City of *London*, and shall (as by Law they ought) peaceably enjoy all and every their Rights, Gifts, Charters, Grants, Liberties, Privileges, Franchises, Customs, Usages, Constitutions, Prescriptions, Immunities, Markets, Duties, Tolls, Lands, Tenements, Estates, and Hereditaments whatsoever, which they had, (or had a Right, Title or Interest in or to) at the Time of giving the said Judgment; and we being apprehensive, that the Alterations made by this Bill in the Constitution of the Common-Council, and other ancient Rights, Franchises, and Prescriptions of the City, may utterly abolish the ancient legal Title of the City to their Rights, Franchises, Prescriptions, and Constitutions in the Particulars contain'd in the said Bill; and may, in Consequence thereof, work a total Change of the whole ancient Constitution of the Corporation of the said City, or greatly confound or prejudice the same, which has stood for so many Ages upon the Foundation of its ancient Title, Rights, and Prescriptions, confirmed by many Grants made by his Majesty's Royal Progenitors, and by many Acts of Parliament; all which were restored so soon after the happy and glorious Revolution, and which have been peaceably enjoyed to the present Time: We are of Opinion, that the Solution of the said Question, by the Judges, must have tended greatly to the necessary Information of the House, and to their better Judgment, upon a Bill of so great Importance, as well as to the Satisfaction and Quiet of the Citizens of *London*, who, so far as we can collect from the Petitions against the Bill, are greatly alarm'd at the Consequence thereof; and we are of Opinion, that it was the more necessary, and the more consistent with the Wisdom of this House, to be informed of the Law, by the Judges, upon the Question propos'd, because we don't find in this Bill any Saving or Confirmation of any of the ancient Titles, Rights, Prescriptions, Privileges, or Franchises of the said City, restored to them by the former Law.

Protest on that  
Occasion.

II. We think the Question ought to have been proposed to the Judges, the rather because the Opinions of several Council were admitted to be read at the Bar of the Committee of the whole House in Favour of the said Bill.

*Bathurst, Lechmere, Coventry, Wharton, St. John de Blesfœ, Bristol, Bingley, Strafford, Abingdon, Bruce, Foley, Gower, Litchfield, Montjoy, Arundell, Fran. Cestriens.*

Then

Anno 11. Geo. I. Then after farther Debate, the Question was put, whether this Bill, with the Amendments should pass? It was resolv'd in the Affirmative, by 79 against 27.

1725.

Protest against  
passing the said  
Bill.

*Dissentient*

I. Because we apprehend, that the Penalty of two hundred Pounds upon the Officer presiding at Wardmote-Elections, as well as at Elections even for Members of Parliament, is so small, that it may be construed into an Indemnification, and be looked upon rather as an Encouragement than a Restraint, by a wealthy, partial and arbitrary Officer; at least, we are of Opinion, that such a one will not be sufficiently deterred by it from returning such Candidates as he likes, rather than such as the City chooses; and if ever that melancholy Case should happen, we fear neither the Candidates nor Voters will be able to find an effectual Method of doing Justice for so flagrant an Injury, either to themselves or to the Nation.

II. Because we cannot but think, from the Evidence given at the Bar, that this Bill will take away from many Citizens their Right in voting in Wardmote-Elections, by giving an Exclusion to all that inhabit Houses under ten Pounds a Year, even tho' they pay all Parish-Duties, or thirty Shillings in lieu of them; which we conceive an unjustifiable Hardship upon those who may have long enjoy'd that Right, and have had no Crime objected to them, much less proved, as we think it ought to be, before they can justly be deprived of it.

III. Because, by this Bill, no Act is to pass in Common Council for the future (except what relates to the Nomination of some few Officers) without the Assent of the major Part of the Mayor and Aldermen present in such Common Council; which, we conceive, will give too great an Addition of Power to the Mayor and Aldermen, who have already many and large Prerogatives incontestably allowed them by the Commonalty of the City; and tho' the Council for the Bill insisted that the Mayor and Aldermen had anciently that Right which this Bill establishes, yet the Proof of that Right appeared to us so remote and obscure, that we own ourselves too short-sighted to discern it; and on the other Side it appeared plain to us, that even from the Time of incorporating the City to this present Time, such a Claim has very seldom been made, and that it has never been acknowledged; and therefore, we conceive, if there be any Foundation for such a Right (which we are far from thinking there is) the Dispute should be decided first in the inferior Courts of Justice, and rather determined in the House of Lords upon an Appeal, than ended by an Act of Parliament

ment ; which seems to us such a Method of determining Controversies of this Nature, as may prove of the most dangerous Consequence to the Rights and Properties of all the Subjects of *Great Britain*. Anno 11. Geo. 1.  
1725.

IV. Because this Bill abolishes the Custom relating to the Distribution of the Personal Estates of Free Citizens ; which is a Custom not only of great Antiquity, but seems to us to be wisely calculated for the Benefit of a Trading City, and has been acquiesced under for so many Years, without the least Complaint of any one Free Citizen that we ever heard of ; that the taking it away in this Manner cannot but appear to us too rash and precipitate, and may too probably, in our Opinion, be very detrimental to the true Interest of this ancient, populous, loyal, and hitherto flourishing City, the Preservation of whose good Order and Government the Bill itself, very justly and judiciously, allows to be of the greatest Consequence to the whole Kingdom.

*Scarsdale, Strafford, Bristol, St John de Bletsoe, Boyles Bathurst, Bingley, Berkeley de Stratton, Compton, Bruce, Craven, Weston, Montjoy, Foley, Exeter, Wharton, Fran. Cestriens, Arundell, Abingdon, Litchfield, Gower, Uxbridge.*

For the foregoing Reasons and these that follow, *viz.*

I. Because we are of Opinion, that the several great Alterations made by this Bill in the ancient Constitution of the Common Council, and other the Rights, Franchises and Prescriptions of the City of *London*, will, if passed into a Law, entirely subvert and destroy the ancient Title which the City at this Time lawfully claims, and has, thereto ; and will introduce and enact a new Constitution upon the City hereafter to be claimed and enjoyed, not upon the Foundation of their ancient Title, but of this Act of Parliament ; which must, as we conceive, in all future Times, whenever the City of *London* may have Occasion to assert or defend their ancient Title and Franchises, bring them under insuperable Difficulties, and may be followed with dangerous Consequences concerning the very Being and Constitution of the Corporation, many of which it is impossible to foresee or enumerate.

II. We are of Opinion, that the new Constitution of the Common Council enacted by this Bill, whereby a Negative is declared and given to the Mayor and Aldermen, not only in the making of By-Laws for the Government of the City, but in other Acts concerning the Issuing and Disposal of the Treasure of the City, and also of the Seal of the City, whereby their Lands and other Estates are subjected to the



ANNO XI. Geo. I.  
1725.

said Negative, and in all other Acts and Powers at this Time, as we conceive, belonging to the Common Council, excepting only the Appointment of some few Officers mentioned in the Bill, is a dangerous Innovation upon the ancient Constitution of the City, unsupported by any Evidence offered at the Bar, and though in late Times mentioned to be claimed, yet contrary, as we conceive, to a clear uninterrupted and convincing Proof of the Exercise of the Powers and Authorities of the Common Councils of all Ages, to the 29th of *January* 1723: And we conceive the Alteration made by the Bill in this Respect to be the more unwarrantable, because the written Evidence offered to support the Claim of a Negative by the Mayor and Aldermen, was either conceived in general Terms unapplicable to that Claim, and not maintained by subsequent Practice, or was drawn from Proceedings in Times of Trouble and Confusion.

III. We are of Opinion, that the extraordinary Power, given by this Bill to the Mayor and Aldermen, will vest in them new exorbitant Authorities over all the Citizens, their Rights, Liberties and Franchises of all Kinds, inconsistent with that Balance of Power in the City, by which the same have been preserved, and in the future Exercise thereof must, as we conceive, lay the Foundation of constant and lasting Disputes, Divisions and Distractions in the City of *London*.

IV. We think this Bill is the more dangerous, because it creates a new Constitution in several Particulars contained in it, not framed upon the ancient Rights proved or pretended to, or disputed on either Side, but is a new Model without due Regard to the antecedent Rights as claimed by either Side, and will deprive a great Number of Citizens of their ancient Rights and Franchises in Elections and otherwise, without leaving them any Opportunity of asserting the same by due Course of Law; and is a Precedent of the most dangerous Consequence to all the Cities and Corporations of this Kingdom.

V. We are of Opinion, that the Abolition of the ancient Custom of the City touching the Personal Estates of Freemen, is a dangerous Innovation tending to let into the Government of the City Persons unexperienced and unpractised in the laudable and beneficial Trade of the City and Kingdom, and unfit for the Magistracy of the City, and may thereby introduce improper and pernicious Influences over the Citizens; and we think that the Strength, Riches, Power and Safety of the City of *London* have been hitherto, in a great Measure, supported by this and other Customs of the City, as the Walls thereof; and we fear, that the Decay of Trade, and with that, of the Grandeur of

of the City of *London*, and the Diminution and Loss of the great Excises and Duties arising from the Trade of the City, on which the Support of his Majesty's Government so much depends, may be the Consequence of the Abolition of this ancient Custom and Privilege of the Freemen of the City of *London*.

Anno 11. Geo. I.  
1725.

VI. Because we are of Opinion, that the Petition of the many thousand Freemen of the City against this Bill ought to be a far greater Weight against this Bill, than the Petition of fifteen Aldermen for it; and that the Confusion which may arise from this Bill, if passed into a Law, may tend greatly to the future Disturbance of his Majesty's wise and gentle Government.

*Wharton, Strafford, Coventry.*

*April 16.* A Bill for redeeming the Annuities of 25000 l. per Annum, charged on the Civil List Revenues by an Act of the 7th Year of his Majesty's Reign, and for discharging the Debts and Arrears due from his Majesty to his Servants, Tradesmen and others, being read the first Time, a Motion was made, That an Address be presented to his Majesty, that he will be pleased to give Directions, that the proper Officers of the Exchequer, Excise, Customs, and Post-Office do lay before this House an Account of all Moneys which have been issued and paid out of the said Offices, to any Persons on Account, for the Privy Purse, Secret Service, Pensions, Bounties, or any Sums of Money to any Persons whatsoever without Account, from the 25th of *March* 1721, to the 25th of *March* 1725; which being objected to, after Debate, the Question was put, whether such an Address shall be presented to his Majesty; it was resolved in the Negative; whereupon the following Lords enter'd their Dissent, viz. *Lechmere, Strafford, Fran. Cestriens, Warrington, Bathurst.*

*April 19.* The said Bill being read the third Time, and a Motion made, that the Bill do pass, it was resolved in the Affirmative.

#### *Dissentient*

Because this Bill is to raise a great Sum of Money, which will, as we apprehend, become a Burthen upon the Publick, and increase that immense Load of Debt, which is already above fifty Millions, and therefore, in our Opinions, requires the utmost Application to diminish it, and cannot but give us the most melancholy Prospect, whenever, especially in a Time of Peace and Tranquility, we find any Addition is made to it; and since his Majesty's Revenue, when first

1725.

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settled

Anno 11. Geo. I.  
1725.

settled, was thought sufficient by the Parliament to answer all the necessary Expences of his Civil Government, and is larger, as we conceive, than that of his Predecessors; and since that Revenue has once already, \* and not long ago, received an Aid of the like Sum, we think we are fully justified in expecting an Account of the Reasons of contracting so great a Debt; and because that was refused to be laid before us, we are of Opinion, we cannot discharge our Duty to our Country, if we should thus, uninformed, and in the Dark, give our Consent to this Bill, which being the second of this Kind within a short Compass of Time, we apprehend, may prove of the more pernicious Example.

*Strafford, Bruce, Boyle.*

*April 26.* The Commons having brought up a Replication to the Answer of *Thomas Earl of Macclesfield*, to their Articles of Impeachment against him, a Question was proposed and stated for appointing his Lordship's Tryal on *Thursday* se'ennight, at the Bar of the House: And the Question being put, whether those Words, *At the Bar of the House*, shall stand Part of the Question, it was resolved in the Affirmative, by 59 against 17.

Protest against  
the E. of Mac-  
clesfield's being  
tried at the Bar  
of the House.

#### *Dissentient*

I. Because we are of Opinion, that it highly concerns the Honour and Dignity of this House, in all Cases of Impeachments, that the Tryal should be had in the most publick and solemn Manner, that being most suitable to the Laws and Constitutions of this Kingdom in all Cases whatsoever, but is more especially requisite in a Prosecution of the Commons of *Great Britain*, begun and carried on by their Representatives in Parliament; for which Reasons we think that this Tryal ought to be had in *Westminster-Hall*, and not at the Bar of this House, where it is impossible, as we conceive, to provide Room and other Conveniencies for the Attendance of the House of Commons, and such others of the Subjects of this Kingdom who may be desirous to be present at this Tryal.

II. We are of Opinion, that it is a Justice due to the Earl who is impeached, to give him the Opportunity of vindicating himself, and to assert his Innocence in the most publick Manner imaginable, the Crimes wherewith he is charged by this Impeachment being of that Nature as render it, as we conceive, most desirable, and even necessary on his Part, to give universal Satisfaction of his Innocence, in a Case wherein his Honour, and that of his Posterity, are so highly concern'd.

#### III.

\* See Chandler's History of the Commons, Anno 1721, p. 257. And also, Anno 1725. p. 339.

III. We are of Opinion, that it is of great Moment to the Honour and Dignity of the Crown, the Fountain of Justice, that the Tryal of this Impeachment should be had in that Place which may be most satisfactory to the whole Nation, because the Articles, whereby the Earl stands impeached, relate to the Administration of the Publick Justice of the Kingdom, and consist of Facts or Matters charged on him whilst he was Lord High Chancellor, and as such, was entrusted by his Majesty with the Execution of the most eminent Office and Station concerning the Administration of Justice.

Anno 11. Geo. I.  
1725.

IV. Because we observe that the Earl impeach'd has, in his Defence, by his Answer, in some Degree involv'd the Honour of many great Personages, Peers of this Realm, and others, some living, and others long since deceas'd, but whose Descendants are now Peers and Members of this House, in the Consideration of the Matters and Crimes charged on himself; which Circumstance of the Defence being, as it seems to us, in the Opinion of the Earl, material to be examined into upon the Tryal, we are of Opinion, that in this Respect also the Place of Tryal is become of more Importance, and most proper to be in *Westminster-Hall*, and not at the Bar of this House, where the Examinations must unavoidably, as we conceive, be less publick, and, in that Respect, less satisfactory.

V. It appearing to us by several Reports delivered to this House by his Majesty's Direction, which relate to the Administration of Justice in the High Court of Chancery, whilst the said Earl was Lord Chancellor, that there are very great Deficiencies of the Money and Effects belonging to Orphans and Widows, and others the Suitors of the Court; which Money and Effects were brought into the Court, or into the Hands of the Masters in Chancery; and which Deficiencies, as they appear to us, amount to a great many Thousand Pounds, as yet wholly unsatisfy'd and unsecur'd; for this Reason we are of Opinion, that it is necessary, for the Publick Satisfaction, and particularly of the Suitors concern'd, that this Trial should be had, not only in the most solemn Manner, but in the most publick Place also.

VI. We do not find, that any Impeachment of the Commons has been tried at the Bar of this House, or in any other Place than in *Westminster-Hall*, since the Restoration of King *Charles II.* and before that Period the Impeachment of the Earl of *Strafford* was tried in *Westminster-Hall*; we also find that since the Restoration, every Peer who has been tried by this House, either on an Impeachment or Indictment, has had his Tryal in *Westminster-Hall*, and not at the Bar of this House; and sometime after the late Revolution, private Persons impeach'd by the Commons, for

1725.

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Frauds

Anno 11. Geo. I.  
1725.

Frauds and Cheats relating to the *Lusstring* Company, and private Traffick, were appointed by this House to be tried in *Westminster-Hall*; the Impeachment of Dr *Sacbeverell*, for Misdeameanors committed in the Pulpit, was tried there also; for which Reasons we are of Opinion, that this Impeachment being, as we conceive, of the highest Consequence to the Honour of the Crown and Kingdom, ought to be considered, at least with equal Regard as to the Place of Tryal, and in every other Respect with any of those Tryals before mentioned; and the rather, for that the Method of Proceedings on Tryals of Impeachments, if had at the Bar of this House, contrary to the general Course since the Restoration, are therefore more unsettled by many late Precedents, and, in that Respect, may be liable to more Difficulties and Delays, than if had in *Westminster-Hall*.

VII. We think that no Consideration of Delay, which may be occasioned for a little Time by the Preparations to be made in *Westminster-Hall*, or any other Account during the Tryal, are an equivalent Consideration, or to be balanced with the publick Satisfaction, which, in every Respect, is, in our Opinion, due to this Proceeding, and especially with regard to the Place of Tryal.

*Wharton, Scarfsdale, Boyle, Strafford, Gower, Foley, Lechmere, Coventry.*

I dissent for all the aforementioned Reasons, except the Fourth.

*Montjoy.*

Then the Question being put, That *Thomas* Earl of *Macclesfield* be tried at the Bar of this House, on *Thursday* se'ennight at Eleven o'Clock in the Forenoon, upon the Impeachment for High Crimes and Misdeameanors, exhibited against him by the House of Commons; it was resolved in the Affirmative.

*Dissentient*

For the Reasons mentioned in the foregoing Protest.

*Scarfsdale, Strafford, Foley, Wharton, Coventry, Boyle, Lechmere.*

Protest against passing a Bill to disarm the Highlanders of Scotland.

May 3. A Bill, For more effectually disarming the Highlanders, in that Part of Great Britain called Scotland, and for the better securing the Peace and Quist of that Part of the Kingdom, was read the third Time; and the Question being put, whether this Bill with the Amendments do pass? It was resolved in the Affirmative.

*Dissentient*

*Dissentient*

Anno 11. Geo. I.

1725.

I. Because the Bill sets forth, that many Persons in the *Highlands* commit many Robberies and Depredations, and oppose the due Execution of Justice against Robbers, Outlaws, and Persons attainted; which Assertion, we conceive, was meant as an Inducement to pass the Bill, and therefore should have been fully made out by Proof, or have been undeniably clear from its Notoriety; but no Proof was attempted to be made of it; and we have not heard that such Outrages, as are charged upon the *Highlanders*, have been committed by them of late.

II. We apprehend that this Bill gives to Lords Lieutenants of Counties, Justices of the Peace, and Others, such large and discretionary Powers, in some Cases, as are hardly to be trusted in the Hands of any Persons in a free Government, unless apparently necessary to the Preservation of it.

III. Since the Behaviour of the *Highlanders* has been peaceable and inoffensive for some Years past, and is so at present, as far as appears to us, we cannot but fear this Bill may prove unseasonable, may hazard the Loss of that invaluable Blessing which we now enjoy, a perfect Calm and Tranquility, and raise amongst these People that Spirit of Discontent and Uneasiness, which now seems entirely laid; for we apprehend that the Execution of some Authorities in this Bill is more likely to create, than to prevent Disorders; we think it applies severe Remedies where, as far as we can perceive, there is no Disease, and this at a Time when the *Highlanders* not being accused of any Enormities, for which, in our Opinion, the Legislature ought in Justice to punish them, or in Prudence to fear them, we think it would become us, as good Patriots, to endeavour rather to keep them quiet, than to make them so.

*Wharton, Gower, Scarfsdale, Boyle, Litchfield.*

On the 6th of this Month the Earl of *Macclesfield's* Tryal Proceedings at came on at the Bar of the House. For the Proceedings at the Earl of *Macclesfield's* Tryal. large upon this Affair, we refer the Reader to the Tryal itself, published by Order of the House of Lords; we shall, however, for the better Illustration of the following Protefts, give an Abstract of the Articles exhibited against the said Earl by the Commons.

‘ The Articles charge him with Corruption and Extortion, The Articles against him. in taking of several of the Masters in *Chancery* exorbitant Sums for Admission into their respective Offices; particularly of *Richard Godfrey*, Esq; (who purchased the Place of a Master of Sir *Thomas Gery* for 5000 l.) 840 l. Of *James Lightboun*, Esq; (who was admitted Master on the Death of

*Samuel*

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*Samuel Browning*, Esq; 6000 *l.* Of *John Borret*, Esq; (who purchased his Place of *John Meller*, Esq; for 9000 *l.*) 1575 *l.* Of *Edward Conway*, Esq; (who purchased his Place of *John Orlebar*, Esq; for 6000 *l.*) 1500 *l.* Of *William Kimpton*, Esq; (who purchased of *William Rogers*, Esq; for 6000 *l.*) 1575 *l.* Of *Thomas Bennet*, Esq; (who purchased his Place of *John Hiccocks*, Esq; for 7500 *l.*) 1575 *l.* Of *Francis Elde*, Esq; (who was admitted a Master on the Death of *William Fellows*, Esq;) 5250 *l.* Of *Mark Thurston*, Esq; (who was admitted a Master on the Death of *John Borret*, Esq;) 5250 *l.*

‘ They charge him also with admitting to these Offices, Men of small Substance and Abilities, and not fit to be trusted with the great Sums and Effects lodged in their Hands: That they were allowed to pay for their Places out of the Suitors Money, and to game with it: That *Fleetwood Dormer*, Esq; embezzled great Part of the Effects of the Suitors, and died 25,000 *l.* indebted to them, which was most of it lost by the Connivance or Contrivance of the Earl, who used every Artifice to prevent an Inquiry into the Deficiencies of the several Offices, lest the Value of them should be lessened: That he unjustly and arbitrarily compelled several Masters to contribute to make good those Deficiencies: That he never required any Security of the Masters for the Sums in their Hands.

‘ That his Majesty having directed an Inquiry into the Accounts of the Masters in *Chancery*, the Earl persuaded the Masters to make false Representations of their Accounts and Circumstances to the Privy Council, and to assist each other with Cash, to make a false Shew of their Ability, that a Parliamentary Inquiry might be prevented; and obliged them to declare in Writing, at the Foot of their Accounts, That they were willing and able to pay the Balance, altho’ he knew they were not.

‘ That when upon *Dormer*’s Misfortunes (which were occasioned by his trafficking with the Suitors Money, and lending it to Goldsmiths at Ten *per Cent.*) it was proposed to the Earl, to prevent the like Mischief for the future, that the Masters might give Security for the Money in their Hands; he would not hearken to it, for then he would have found none that would have given him 6000 *l.* for a vacant Place, or 1500 Guineas for an Admission.

‘ That he had declared from the Bench, that the Masters were Men of as good Substance as ever filled those Places; when it was commonly known, that one third of them had given as much, or more, for their Places and Admissions, than they were worth at the Time of the Purchase.

‘ He is charged also with taking 100 Guineas of Mr *Bennet*, for Leave to resign the Office of Clerk of the Custodies,

todies, in order to obtain his Majesty's Grant of that Office Anno 11. Geo. 1.  
to *Hugh Hammersley*, Esq; who had purchased it of Mr *Bennet*. 1725.

And, as an Aggravation of his Crimes, that he was guilty of these Extortions, after his Majesty had bestowed on him 14,000 *l.* and granted his Son, *George Parker*, a Teller's Place in the *Exchequer* for Life, worth 1500 *l. per Annum*; to himself a Pension of 1200 *l. per Annum*, and also an Annuity of 4000 *l. per Annum*, besides the Profits of the Chancellor's Office; that not satisfied with this ample Revenue, or regarding the Obligation of his Oath, or the Duty of his Office, he had illegally, corruptly, and extorsively taken and received the said Sums to his own private Use.

The Earl, in his Answer, acknowledged his Majesty's Bounty to him, as set forth in the Articles, and the said Sums for the Masters Places, and for the Office of Clerk of the Custodies; but said, ' That he received them as Presents and Perquisites of his Office: That the receiving them was not prohibited by the Common or Statute Law, and that his Predecessors had received the like Presents on the like Occasions: He denies he admitted insufficient Persons to the Offices of Masters in *Chancery*, or that he allowed or knew of their paying for their Places, or trafficking with the Suitors Money: He denies also, that he knew of *Dormer's* Deficiency, till it was publickly known; nor did he contribute to the Concealment of that Deficiency, or the Deficiencies of any other Masters, but did all in his Power to repair their Deficiencies: Nor had he used any arbitrary Methods to compel the other Masters to make good those Deficiencies: That he did not, indeed, require Security of the Masters, because this had never been required by any former Chancellors: That he neither commanded or persuaded the Masters to make false Representations of their Accounts or Circumstances; or to assist each other with Cash, to make a false Shew of their Ability, to prevent a Parliamentary Inquiry: Nor did he declare, that the present Masters were of as good Substance as ever filled those Places.

And he does further say, ' That he is not guilty of all, or any of the Matters contained in the said Articles, in Manner and Form as they are therein charged against him: And does also insist on the Benefit of his Majesty's Pardon, granted by Act of Parliament, in the Seventh Year of his Reign, in Bar of the said Impeachment, so far as the same extends to any Offence, or supposed Offence, committed by him before the 24th of July, 1721: And insists, that no Evidence ought to be given against him of any Thing done before that Time: And doth aver, That he is not within any of the Exceptions in the said Act contained.



Anno 22. Geo. I.  
1725.

The Commons replied to the Earl's Answer, and averred their Charge to be true; and that he was guilty in such Manner and Form as he stood impeach'd; and the Managers having finished their Reply to the Earl's Defence, the following Question was put to every Lord,

He is unanimously found guilty.

*Is Thomas Earl of Macclesfield guilty of the High Crimes and Misdemeanors charg'd upon him by the Impeachment of the House of Commons, or not guilty?*

The Names of the Lords present, who unanimously found him guilty, are as follows :

Names of the  
Lords present at  
the Trial.

**BARONS.** *Walpole, Lechmere, Ducis, Onslow, Bathurst, Foley, Mafham, Trevor, Montjoy (Viscount Windsor of Ireland), Hay (Earl of Kinnoull in Scotland), Goswer, Herbert, Ashburnham, Waldegrave, Lynn, Cornwallis, Bruce, Brooke, Compton, Hunston, Clinton, Delaware, Percy, Abingdon.*

**BISHOPS.** *Exeter (a), Bristol (b), Chichester (c), St Davids (d), Norwich (e), Carlisle (f), Bangor (g), Gloucester (h), Ely (i), Peterborough (k), Rochester (l), Oxford (m), St Asaph (n), Winchester (o), Durham (p), London (q).*

**VISCOUNTS.** *Torrington, Harcourt, Cobham, Tadcaster (Earl of Thomsd in Ireland), Lonsdale, Hutton, Townshend, Say and Seal.*

**EARLS.** *Pemfret, Harborough, Cadogan, Suffex, Halifax, Bristol, Strafford, Ferrers, Ilay, Deloraine, Stair, Orkney, Selkirk, Findlater, Buchan, Rathe, Cholmondeley, Albemarle, Rochford, Scarborough, Abingdon, Yarmouth, Burlington, Carlisle, Scarfsdale, Sunderland, Denbigh, Warwick, Northampton, Leicester, Lincoln, Pembroke.*

**MARQUIS.** *Tweedale.*

**DUKES.** *Chandos, Manchester, Wharton, Newcastle, Ancaster, Roxburgh, Montross, Montague, Grafton (r), Greenwich (s) (Duke of Argyle in Scotland), Devonshire (t).*

**ARCHBISHOP.** *Canterbury.*

May 22. A Report being made from the Committee of the whole House, on the Bill, *For enabling Henry St John, late Viscount Bolingbroke, and his Heirs Male, notwithstanding his Attainder, to enjoy several Estates, according to such Interests as are limited in a certain Indenture, and other Assurances therein mentioned, and for other Purposes,* That the

Committee

(a) Dr Weston. (b) Dr Bradshaw. (c) Dr Waddington. (d) Dr Smallbroke. (e) Dr Leng. (f) Dr Waugh. (g) Dr Baker. (h) Dr Wilcox. (i) Dr Green. (k) Dr Kennet. (l) Dr Bradford. (m) Dr Potter. (n) Dr Wynne. (o) Dr Willis. (p) Dr Talbot. (q) Dr Gibbon. (r) Lord Chamberlain of the Household. (s) Lord Steward. (t) President of the Council.

Committee had made some Progress in the Bill; the Question was put, whether the House shall be put into a Committee again upon the said Bill on *Monday* next, at Ten o'Clock in the Forenoon? it was resolved in the Affirmative, by 46 against 22.

Anno 11. Geo. I.  
1725.

### *Dissentient*

I. Because we apprehend it to be inconsistent with the Honour and Dignity, which, in all Cases, should be observed in the Proceedings of this House, to make a Resolution, especially upon Debate, to put the House into a Committee on this Bill, at the same Instant or Moment of Time on which, by an Order of the 21st Instant, it was resolved, that the House would farther proceed on the Impeachment of the Earl of *Macclesfield*; and it does not appear to us, that any Precedent is to be found on the Journals of this House, to warrant this Resolution in that Respect.

Protest against  
committing it.

II. We conceive that this Resolution may draw on a Debate or Doubt in the House, touching the Preference to be given by the House to the further Progress on this Bill, or to the further Proceeding on the said Impeachment; which Debate, if any such should happen, we think, may be attended with ill Consequences; the Matter of the said Impeachment, so pressing and necessary, in our Opinions, to the publick Justice of the Nation, being compared with this Bill, which contains, as we think, extraordinary and undeserved Bounty and Reward to a Person impeached by the Commons, and as yet attainted for Treasons\*, which tended to the Overthrow of the Protestant Succession to the Crown of these Realms, and to the placing the *Pretender* on the Throne.

*Warrington, Coventry, Lechmere.*

May 24. A Bill *For enabling Henry St John, late Viscount Bolingbroke, and the Male Heirs of his Body, notwithstanding his Attainder, to take and enjoy several Manors, Lands, and Hereditaments in the Counties of Wilts, Surry, and Middlesex, according to such Estates and Interests as to him or them are limited thereof by the Quinquedartite Indenture, and other Assurances therein mentioned, and for limiting the same, in Default of the Issue-Male of the Body of the said late Viscount Bolingbroke, to the other Sons of Henry Viscount St. John successively in Tale-Male, and for other Purposes therein expressed*, was read the third Time: And the Question being put, that the Bill do pass, it was resolved in the Affirmative by 75 against 25.

1725

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\* See Chandler's History of the Commons, Anno 1715, p. 26.

Anno 11. Geo. I. *Dissentient'*

1725.

Protest against it.

I. Because the Purport and Intention of this Bill is to repeal several Acts of Parliament passed since his Majesty's Accession, whereby all the Estate and Interest of the late Lord *Bolingbroke*, in the Lands mentioned in this Bill, being forfeited to the Crown for High-Treason, were vested in Trustees, and still remain appropriated for the Use and Benefit of the Publick; the Value of which Lands amount, as we believe, to several thousand Pounds *per Annum*; we therefore think it unjust to all the Subjects of this Kingdom, who have borne many heavy Taxes, occasioned, as we believe, in great measure, by the Treasons committed, and the Rebellion which was encouraged by this Person, to take from the Publick the Benefit of his Forfeiture.

II. It appears from the Articles of Impeachment exhibited by the Commons against the late Lord *Bolingbroke*, whereof he now stands attainted by Act of Parliament, that he stood charged with the Commission of several Treasons of the most flagrant and dangerous Nature, committed by him whilst he was *Secretary of State* to her late Majesty Queen *Anne*, for traiterously betraying her most secret Councils to the King of *France*, then at War and in Enmity with her Majesty; and with other Treasons tending to destroy the Balance of *Europe*, and to raise the then exorbitant Power of the *French* King, who not long before had publicly acknowledged the *Pretender* to be the lawful and rightful King of these Realms.

III. The Treasons wherewith he was charged, we conceive, were fully confessed by his Flight from the Justice of Parliament; but his Guilt was afterwards, as we think, indisputably demonstrated by the new Treasons he openly and avowedly committed against his present Majesty; it being notorious, and it having been declared to the House on the Debate of this Bill, that he did, soon after his Flight, enter publicly into the Councils and Services of the *Pretender*, who was then somenting and carrying on a Rebellion within these Kingdoms for the dethroning his Majesty, into which Rebellion many of his Majesty's Subjects, as well Peers as Commoners, were drawn, as we believe, by the Example or Influence of the late Lord *Bolingbroke*; and for which Treason many Peers and Commoners have been since attainted, and some of them executed, and their Estates both real and personal become forfeited by their Attainders, and as yet continue under those Forfeitures.

IV. We have not been informed of any particular publick Services which this Person hath performed to his Majesty or this Nation, since his Commission of the many high and

and dangerous Treasons before-mentioned, and in case he has done any, they must be of such a Nature as ought, in our Opinions, to be rewarded in another Manner than is provided by this Bill, and for which, we think, the Crown is otherwise sufficiently enabled; and the Sincerity of his having quitted the Interest of the *Pretender* may, in our Opinions, be justly suspected, he never having, as appears to us, throughout the Progress of this Bill in both Houses, once signified his Sorrow for the Treasons he had committed; and if he had really abandoned that Interest, his private Intelligences or Services, with regard to the Interest or Councils of the *Pretender*, can't reasonably be supposed, in our Opinions, to be of great Value.

Anno 11. Geo. 1.  
1725.

V. We think that no Assurances which this Person hath given, nor any Services he can have performed since his Commission of the Treasons aforesaid, or any farther Obligations he can enter into, can be a sufficient Security to his Majesty, or the Kingdom, against his future Insincerity, which may happen, he having already so often violated the most solemn Assurances and Obligations, and in Defiance of them having openly attempted the dethroning of his Majesty, and the Destruction of the Liberties of his Country.

VI. We think the Services he may have performed, if any, ought not to be rewarded either in the Degree or the Manner provided by this Bill, it having been found by Experience, in Cases of like Nature, that the strongest Assurances have afterwards proved deceitful; for which Reason we conceive it to be unwise and dangerous to give such Rewards as can't be recalled, tho' the Assurances should be broke; and we believe it to be the known Policy and universal Practice of wise Governments to keep the Persons (claiming Merit from such Services as the late Lord *Bolingbroke* can possibly have performed since the Commissions of his Treasons) dependent on the Government for the Continuance of those Rewards.

VII. The Pardon of the late Lord *Bolingbroke*, under the great Seal, having been communicated to the House, and under Consideration on the Debate of this Bill, we think, that this Bill ought not to pass, because it may hereafter be construed, in some degree, to confirm or countenance that Pardon; and we are of Opinion, that that Pardon, though it may be legal as to the Treasons committed by him since his Attainder, yet so far as it may be construed (if that should be) to pardon or affect the Act of Attainder of the late Lord *Bolingbroke*, or the Impeachment of the Commons, on which that Act is founded, it is a most dangerous Violation of the ancient Rights and Freedom of the Kingdom, and will defeat the whole Use and

Anno 11. Geo. I.  
1725.



Effect of the Impeachments by the Commons ; which is, as we think, the chief Institution, arising even from the Constitution itself, for the Preservation of the Government, and for the attaining Parliamentary Justice ; and tends, as we conceive, to render the Rights and Judicature of this House, on Impeachments and Bills of Attainder, vain and useless ; all which ancient Rights of both Houses, and of the Subjects of this Nation, were saved to them by the Revolution, and were intended, as we conceive, to have been for ever preserved to them in their full Extent, by the Act passed in the Reign of the late King *William*, of ever glorious Memory, by which the Crown of these Realms is limited and settled on his present Majesty and his Issue, and in which Act it stands declared, that no Pardon under the Great Seal shall be pleadable to an Impeachment of the Commons.

VIII. We are of Opinion, that the Power of dispensing Mercy is an ancient inherent Right of the Crown of these Realms, and the Exercise of it of great Benefit to the People, when 'tis wisely and properly applied ; but it being incumbent on us, in the Vote we give for or against passing this Bill, to judge between the late Lord *Bolingbroke*, and to consider the Right and Title he appears to us to have to the Benefits of this Bill, and the Concern which, on the other Side, the Honour, Interest and Safety of the King and his Royal Family, and the whole Kingdom, have, in our Opinion, from the Consequences of it, we think we can't be justified in our own Thoughts, with regard to the latter, or to our Posterity, if we should consent that this Bill should pass.

*Bristol, Coventry, Onslow, Clinton, Leckmere.*

May 26. The Lords having unanimously found the Earl of *Macclesfield* guilty of the High Crimes and Misdemeanors, charged on him by the Impeachment of the House of Commons ; and come to a Resolution that the said Earl should be fined, The Question was put, whether the said Earl shall be for ever incapable of any Office, Place or Employment in the State or Commonwealth ? It was resolved in the Negative. Contents 42.- Not Content 42 \*

Protest on a Motion for disabling the Earl of *Macclesfield* from holding any Employment, passing in the Negative.

*Dissentient*

I. Because it is certain that the Honour and Dignity of the Crown, the Security of our religious and civil Rights, and

\* When a Motion for any Resolution or Order is made, if there be an Equality of Voices, it always passes in the Negative.

and the Preservation of our most excellent Constitution in Anno 11. Geo. I.  
Church and State, entirely depend upon the Probity, Integrity and Ability of those Persons whom his Majesty shall call to his Councils, and who shall be employ'd in any Office, Place or Employment in the State or Commonwealth. 1725.

II. Because we conceive, a Person impeach'd by the House of Commons of Corruption of the deepest Dye, and who, after a full and legal Trial, was by this House unanimously found guilty of High-Crimes and Misdemeanors, charged on him by the House of Commons, which High-Crimes and Misdemeanors were committed by him in the Execution of his high Station as Lord High-Chancellor of *Great-Britain*, ought not to be exempted from this Part of the Sentence, which has always been thought proper to be inflicted by our Ancestors, both in regard to the Safety of the Government, and the Justice of this House, on Persons convicted of Crimes of the like Nature; and we do not find one Instance on the Journals of Parliament, where this Penalty has been omitted.

III. We apprehend that his Majesty having remov'd the Earl of *Macclesfield* from the Trust reposed in him by the Custody of the Great-Seal, and having earnestly recommended to the Lords Commissioners appointed to succeed him, the taking effectual Care, that entire Satisfaction be made to the Suitors of the Court, and that such Suitors be not exposed to any Dangers for the future, and having fully expressed his gracious Disposition that the said Lords Commissioners should look narrowly into the Behaviour of all the Officers under their Jurisdiction, and should see that such Officers act with the strictest Regard to Justice, and to the Ease of his Subjects, (which is a plain Indication of his Majesty's just Resentment of the Earl's ill Conduct, during his presiding in the Court of Chancery) and having, in great Tenderneſs to the injured Nation, recommended the Protection of the unhappy Sufferers to the Justice of Parliament, we thought it incumbent upon us, on this great Occasion, when the Commons have so clearly made out their Charge against the impeach'd Earl, not to depart from the Methods of our Ancestors in the framing of our Sentence, with an unusual Tenderneſs to a Person, against whom the whole Nation cries for Justice, but to pursue their glorious Steps upon the like Occasions, and to incapacitate the said Earl from having any Office, Place or Employment in the State or Commonwealth, as the most effectual Means to deter others from being guilty of the like Crimes for the future.

*Wharton, Abingdon, Bruce, Strafford, Pomfret, Denbig, Compton.*

Anno 11. Geo. I.  
1725.

We do dissent to the beforemention'd Question for the Reasons following.

I. This House having resolv'd, that the House of Commons have made good their Charge of High-Crimes and Misdemeanors against the Earl impeach'd, and by a subsequent Resolution having unanimously declar'd him guilty, we are of Opinion, that it is a necessary Consequence in Law, Justice, Honour and Conscience, that the Disabilities contain'd in the Question propos'd should be a Part of his Punishment, they being such as, we think, the wholesome Laws and Statutes, against which the Earl has offended, do expressly ordain for the Punishment of his Crimes, and such as the Nature, Circumstances and Consequences of his Guilt do, in our Opinions, most justly deserve.

II. The Articles of the House of Commons, whereof the Earl is, in our Opinions, declar'd guilty, are an Accusation of him for many repeated Acts of Bribery, Extortion, Perjury and Oppression, committed by Colour of his Office of Lord High Chancellor, and of many Endeavours to have conceal'd and suppress'd the Discovery of them, even from the Knowledge of his Majesty ; those Crimes therefore, being by the Laws of this Land, and, as we believe, by the Laws of all civiliz'd Nations in the World, adjudg'd to be Crimes of an infamous Nature, we think the Incapacity propos'd by this Question to be one natural and unavoidable Step to have been made by this House in the Judgment on those Crimes.

III. The Earl, in his Answer to the Articles of the Commons, hath asserted, that the taking the many Sums by him from the Masters in Chancery, (which Sums he there calls Presents) was never before looked upon to be criminal ; and hopes that the giving or receiving such a Present is not criminal in itself, or by the common Law of this Realm, and that there is not any Act of Parliament whatsoever by which the same is made criminal, or subject to any Punishment or Judgment, which can be prayed in this Prosecution : The Earl himself, and his Council on his Behalf, upon his Tryal, attempted to justify his Extortions (then called Complements) and endeavour'd to maintain, that they are conformable to the Laws of the Land ; but we cannot reflect on this Behaviour of the Earl otherwise than as the highest Dishonour thrown, by him, upon the Laws and Government of this Kingdom, and a most daring and groundless Endeavour to disparage the common Law of the Land, *Magna Charta* itself, the clear and express Injunctions of many Statutes, particularly those pass'd in the Reigns of *Richard II.* *Henry IV.* and *Edward VI.* in this Behalf, and of an Act pass'd this Session of Parliament for the Indemnification of the Masters in

in Chancery ; against the plain Sense of all which Laws the Earl has, in our Opinions, knowingly and wilfully offended ; and as this unparallel'd Justification attempted by the Earl will be transmitted to all Posterity, we think it absolutely necessary that the Punishment propos'd by this Question should have been inflict'd, in Vindication of the Laws and Government itself, against the Aspersions the Earl has thrown upon both, and to prevent any Imputation which may hereafter be cast on the Honour and Justice of this House, as having, on this Occasion in any Degree seem'd to favour or countenance such Defence.

Anno 11. Geo. I.  
1725.

IV. The Earl has in his Answer asserted some of his Practices to have been long us'd by his Predecessors, and by others being Chief Justices, Masters of the Rolls, and other Judges ; and on his Tryal offer'd Evidence to prove his Assertion in four Instances only, three of them in the Time of one, and the other in the Time of his immediate Predecessor ; but tho' those Instances, as we think, were unattended with the many Aggravations of the Earl's Guilt in those Respects, yet lest those Examples, together with that of the Earl, should hereafter be construed a Mitigation of his, or an Encouragement to the like Offence, we think the Punishment now propos'd ought to have been inflict'd, by which it would become the more exemplary ; and the rather, because it appears to us highly probable, that the Imputation, as it is thrown by the Earl upon his Predecessors, is unjust ; the Memory of many of those wise and excellent Persons never having been, as we believe, stained with an Imputation, till the Earl cast it on them ; and some of his Predecessors having, in several Ages, fallen under the severe and strict Inquisition of Parliament for Bribery and Corruption, without any Charge upon them for that criminal Practice.

V. We are of Opinion, That this House, now exercising its Judicature as the supreme Court in this Kingdom, upon an Accusation of the Commons for Offences against the known Laws of the Land, has no legal Power or Authority to dispense with or omit those Punishments which are expressly ordained by positive Acts of Parliament ; and it appears to us to be indisputable, that the Disabilities propos'd by this Question are expressly ordained by the Statute made 11 Hen. IV. and in some degree by the Statute 5 & 6 Edward VI. against buying and selling Offices, for the very same Offences of which this House hath, as we conceive, declared (and of which we are fully satisfied in our Consciences) the Earl is guilty ; and the Punishment propos'd in this Question hath been inflict'd by the House in the Cases of the Lord Bacon and the Earl of Middlesex, for Corruptions, in our Opinions, much less heinous than the

Crimes



ANNO 11. GEO. I.  
1725.

**Crimes of the Earl impeached ; and the Judgments given by this House on those two Persons were founded, as we think, not only upon the Nature of the Crimes, but were directed and prescribed by the Acts of Parliament above mentioned, and still remain on the Records of this House unimpeached, and their Authority never judicially questioned, to our Knowledge, but are often referred to and approved by the most learned Authors and Judges of the Laws of this Land ; we are therefore of Opinion, that it was not only wise, but even that the Law requires, that the Judgment upon the Earl impeached should be consonant in this respect to the Judgment of this House, in those two Instances ; whereby the Law of the Land in this Particular stands declared, as we think, by the Authority of the supreme Judicature of the Kingdom ; and which no Power less than the Authority of an Act of Parliament, in our Opinions, can abrogate.**

VI. It having appeared, on the Trial of the impeached Lord, that the most dangerous and destructive Corruptions have been committed by him whilst in the highest Station in the Administration of publick Justice, to the great Dishonour of the Crown, and the Detriment of great Numbers of the King's Subjects ; and, in one Instance, whilst he (with others) was in the Exercise of the Regal Authority ; we think it of the highest Consequence to the Honour and Support of his Majesty's Government, and the Satisfaction of the whole Kingdom, that the Earl should, by the Judgment of this House, have been incapacitated from ever having the Power or Opportunity of re-acting the like Corruptions, against which, as we conceive, there could be no Security, but by inflicting upon him the Disabilities proposed in this Question.

*Scarsdale, Greenwich, Strafford, Denbigh, Buchan, Halifax, Harbrough, Selkirk, Orkney, Ashburnham, Wharton, Carlisle, Litchfield, Gower, Brooke, Bruce, Manchester, Hay, Masham, Northampton, Abingdon, Bristol, Bathurst, Lechmere, Suffex.*

Then it being moved to resolve, That the said Earl shall never sit in Parliament, nor come within the Verge of the Court, after Debate, it was resolved in the Negative, by  
45 against 39.

Protest on a Motion to incapacitate the said Earl from sitting in Parliament, &c. passing in the Negative.

*Dissentient*

I. We cannot agree to this Resolution for the Reasons given in the last Protest ; and further, we conceive, that there was the greater Necessity for the Punishment proposed

in this, from the Determination of the House on the former Anno 11. Geo. 1.  
 Question, from whence (and also from the Question having  
 passed in the Negative) there remains, as we apprehend, no  
 Punishment, but a pecuniary one, to be inflicted on the im-  
 peached Earl for his heinous and unexampled Misdeameanors;  
 which Punishment we think (and we fear the whole Nation  
 will judge) to be utterly unadequate to his Transgressions,  
 and not consistent with the Resolutions already passed by  
 this House upon the Earl, whereby he is rendered in Judg-  
 ment of Law, as we think, an infamous Person, and not  
 capable of bearing Testimony as a Witness, much less to sit  
 in this supreme Court as a Judge, perhaps on Points of the  
 highest Moment to the Kingdom, and over the Lives, Li-  
 berties and Properties of the Subjects, many of which he has,  
 in our Opinions, already so notoriously injured.

II. Because we find, that the Punishment now proposed  
 has been inflicted in the two Instances of Lord Bacon and the  
 Earl of *Middlesex*; and the like in earlier Instances, parti-  
 cularly in the Case of *Hubert de Burgo*, created Earl of  
*Kent*, who was afterwards charged in Parliament for coun-  
 selling the King to cancel *Magna Charta*, and for other  
 Offences; and was degraded from his Dignity by the Judg-  
 ment of his Peers; and we conceive, that the Condemna-  
 tion which this House has already passed on this Earl is  
 founded upon the most aggravated Guilt which has ever ap-  
 peared in any Criminal, whose Offences were not capital;  
 amongst which his repeated Wholesale (as we conceive them  
 to be) of the Justice of the Court of *Chancery*, in the cor-  
 rupt Dispositions of the Offices of the Masters, were, as far  
 as in him lay, so many Barthers and Sales of *Magna Charta*  
 itself, by which the Sale of Justice is prohibited.

III. We conceive it to be utterly inconsistent with the Ho-  
 nour and Dignity of this House, to suffer a Lord condem-  
 ned, as we think, for the most dangerous Corruptions com-  
 mitted by him whilst he was a Judge, to continue afterwards  
 in the Enjoyment of his Seat in this House, under no other  
 Censure than of a Fine, and Imprisonment till that is paid;  
 because, we fear, it may hereafter give too much Encou-  
 ragement to the worst Corruptions in the greatest Officers  
 of State, if, from the Example of this Earl, it should be  
 hoped their Crimes may be ransomed by a small Part, per-  
 haps, of their corrupt and extorsive Gains; by which means  
 the greatest Offenders of this sort may think their Impunity  
 the more secure, by so much the higher that they carry,  
 and the more they succeed in their corrupt Practices: We  
 think also, that the Sum of thirty thousand Pounds, if that  
 should be the Fine, does very little, if at all, exceed the  
 gross Sums this Earl has received, as we believe, in Boun-

Anno 11. Geo. I.  
1725.

ties from his Majesty, over and above the due Profits of his Offices, and the other great Sums he has extorted and still retains; we are therefore of opinion, that the Infamy, which, we think, is due to the Crimes of which the Earl is condemned, should have been fixed upon him by the Disability proposed in this Question.

*Scarsdale, Wharton, Strafford, Selkirk, Manchester, Gower, Bathurst, Harborough, Northampton, Brooks, Bruce, Buchan, Denbigh, Halifax, Lechmere, Masban, Greenwich, Alsburnham, Abingdon, Carlisle, Bristol, Hay, Litchfield, Orkney.*

We dissent to the last mentioned Question for the Reasons following :

I. For the first Reasons given on the foregoing Question, which, we apprehend, hold the stronger against his being permitted to sit in the highest Court of Judicature, since it may expose the Judgment of this House to Censure, when a Person guilty of such corrupt Practices shall be one of the Judges.

II. We apprehend, that a Person whom his Majesty has, in such a Manner, removed from being a Judge of his Subjects Properties, cannot be thought fit to sit in this House, in such Case as may affect the Lives of every Peer of this House, and the Property of all the Subjects of Great Britain.

*Wharton, Pemsford, Abingdon, Bruce, Compton, Strafford.*

The E. of Macclesfield fin'd 30,000 l.

On the 27th of May, the Lords having set a Fine of 30,000 l. upon the Earl, he was taken from the Bar, and conveyed to the Tower, where he remained a Prisoner a short Time, and then paid his Fine, and was discharged \*.

Which is ordered to be apply'd to the Relief of the Suitors in Chancery.

May 31. The House resolved, *nem. con.* That an Address be presented to his Majesty to order, That the Fine imposed on Thomas Earl of Macclesfield, as the same shall be paid into the Exchequer, be issued and paid into the Court of Chancery, to be applied towards making good any of the Losses of the Suitors occasioned by the Deficiencies of the Masters of the said Court, as that Court shall think fit to direct. To which his Majesty return'd for Answer, 'That he would give Orders accordingly.'

The Parliament prorogued.

The same Day the King came to the House, and after a Speech as usual, prorogued the Parliament to the 1st of July.

*4th*

\* On the 31st of May his Majesty in Council ordered the Earl of Macclesfield's Name to be struck out of the List of Privy Counsellors.



## The FOURTH SESSION of the SECOND PARLIAMENT of King GEORGE I.

ON the 20th of *January*, the Parliament being met after several Prorogations, the King came to the House, and open'd the Session with a Speech \* to both Houses ; his Majesty being withdrawn, the Lords unanimously voted the following Address of Thanks.

Anno 12. Geo. I.  
1725-26.

*Most Gracious Sovereign,*

WE your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, humbly beg Leave to return your Majesty our most hearty Thanks for your most gracious Speech from the Throne, and with Hearts full of inexpressible Joy, to congratulate your Majesty upon your happy Return in Safety to your Kingdom.

An Address of  
Thanks for the  
King's Speech  
at opening the  
Fourth Session.

We cannot without the highest Satisfaction reflect upon your Majesty's Concern for our distressed Protestant Brethren abroad ; our most zealous Endeavours shall never be wanting, that your Majesty's pious Interposition for them may produce the most desired Effects.

We thankfully acknowledge your Majesty's exceeding Goodness and Condescension, in acquainting us with the Defensive Alliance lately made by your Majesty for preventing the ill Consequences, which might otherwise attend the Negotiations and Engagements entred into by other Potentates, to the apparent Prejudice of this Kingdom ; and for your Majesty's gracious Assurance, that it should be soon laid before us. Nothing can be more vain than for any Foreign Powers to entertain the Hopes of rendering themselves formidable to *Britain* ; your Majesty having strengthened your self by such powerful Alliances, the Resolution and Fidelity of your Subjects being so well known, and the late Marks of their Valour not yet worn out. We most humbly entreat your Majesty to believe, that our Lives are not dearer to us, than your Majesty's Honour ; and that your Majesty may, at all Times, with Certainty depend upon our strongest Efforts, to maintain and defend it against all Powers whatsoever, who can so far delude themselves, as to imagine that they may with Safety insult and menace the *British* Crown or Nation.

1725-26.

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\* For the Speech at large, see Chandler's History of the Commons, P. 349.

Anno 12. Geo. I.  
1725-26.

‘ It is no Surprize to us, that the Enemies to your Majesty’s Person and Government are labouring to disturb the Peace of this Kingdom, if they can flatter themselves with the Prospect of any new Troubles or Commotions in *Europe*.

‘ We can easily believe that at such a Juncture, new Schemes and Solicitations are daily making by the most profligate and abandoned of them, to revive the expiring Cause of the Pretender; all which, we assure our selves, can have no other Effect, than to hasten his Destruction, and the utter Ruin of all his perjured Adherents.

‘ Your Majesty’s constant and unwearied Endeavours to perpetuate to us the Blessing of that happy Tranquility we now enjoy, and to maintain the general Peace and Balance of *Europe*, to preserve the Trade of this Nation, and to secure to your People the many valuable Rights and Privileges, to which they are entitled by the most solemn Treaties; oblige us to all imaginable Returns of Duty and Gratitude, and leave us no Room to doubt, when we consider the prudent Measures your Majesty has taken for attaining those great Ends, but that all your Majesty’s Endeavours will, by the Blessing of God thereupon, notwithstanding any Attempts to the contrary, be crowned with Success.’

His Majesty’s Answer was as follows :

The King’s Answer.

*My Lords,*

“ I Heartily thank you for this very affectionate and loyal Address; the World may be convinc’d by it, how fixed and immoveable all your Purposes and Resolutions are to maintain my Honour, and promote the true Interest of your Country: You may be assured of my constant Endeavours to support the Protestant Religion, to preserve the Peace and Balance of Power in *Europe*, to prevent any Encroachment on the Trade of my Subjects, and on all Occasions to encrease their Happiness.”

Id Townsend moves for an Address of Thanks to the King, for communicating to the House the Treaties between the Emperor and the K. of Spain, and the Alliance between his Majesty and the Kings of France and Prussia.

*Feb. 17.* The Lords took into Consideration several Treaties laid before them: After the Reading thereof the Lord *Townsend* mov’d, That an Address be presented to his Majesty, to return the Thanks of this House for communicating the Treaties of Peace and Commerce concluded between the Emperor and the King of *Spain*, and the Defensive Alliance between his Majesty, the most Christian King, and the King of *Prussia*. To express their just Sense of his Majesty’s Concern for the Balance and Peace of *Europe*, and

and the Protestant Religion ; and their unfeigned Gratitude for his earnest and seasonable Care of the particular Interests of his *British* Subjects, by forming and entering into the said defensive Alliance with the most Christian King and the King of *Prussia*, in order to obviate and disappoint the dangerous Views and Consequences of the Treaty of Peace betwixt the Emperor and the King of *Spain* ; and to preserve the many valuable Rights and Privileges of this Nation, against the fatal Tendency of the said Treaty of Commerce, calculated for the entire Destruction of the *British* Trade, in Breach of several solemn Treaties now in Force. To acknowledge his Majesty's Prudence and Resolution, in not letting any Attempts or Insinuations whatsoever divert his Majesty from consulting and steadily pursuing the true Interest of these his Kingdoms ; and to assure his Majesty, that in Justice and Vindication of the Honour and Dignity of the *British* Crown, this House will effectually stand by and support his Majesty against all Insults and Attacks, that any Prince or Power, in Resentment of the just Measures which his Majesty has so wisely taken, shall make upon any of his Majesty's Territories or Dominions, tho' not belonging to the Crown of *Great Britain*.

Anno 12. Geo. I.  
1725-26.

Debate thereon.

The Duke of *Newcastle* seconded that Motion, and took that Opportunity of acquainting the House with a remarkable Passage out of a Letter from Mr *Stanhope*, his Majesty's Minister in *Spain*, viz. ' That in a private Conversation, the Duke of *Ripperda* had not scrupled to own, ' that besides what had already been communicated to him ' about the late Treaties of *Vienna*, there were still some ' other secret Articles, which, in due Time, should be made ' publick, whereby the contracting Parties mutually engaged to assist each other with a certain Number of Troops, ' in order to support the *Osford* Company, and to recover ' *Gibraltar*.' His Grace being ask'd, whether he would produce that Letter ? He said, he had not the King's Commands for it ; but was only left at Liberty to take Notice of what he had already mention'd. Hereupon the Lord *Lechmere* observ'd, That no Stress could be laid on, or any Judgment made of an Information that did not come regularly and in Form before the House : That besides, 'twas usual with Ministers of State, sometimes to drop Things that have no Reality in common Conversation, only to sound those with whom they negotiate : That the Treaties that had been communicated to them, being a Matter of the nicest Nature, and greatest Importance, they ought to proceed in it with the utmost Caution, and maturest Deliberation, and therefore he was of Opinion, they ought to take some

D. of Newcastle.

Ld Lechmere.

Anno 12. Geo. I.  
1725-26.

E. of Scarbo-  
rough.

Ld Lechmere's  
Motion for a  
Clause to be ad-  
ded to the said  
Address, relating  
to the King's  
German Domi-  
nions.

some Time to consider of it, and adjourn the Debate to another Day. He was answer'd by the Earl of *Scarborough*, and the Question being put upon the Motion for an Address, it was carried without a Division.

After this Lord *Lechmere* stood up, and declared, ' That he would go as far as any Member of that illustrious Assembly, in vindicating the Honour and Dignity of the *British* Crown, and in supporting and defending his Majesty's Person and Government : That as their present and future Happiness depended, next under God, on the Settlement of the Crown of these Realms on his Majesty and his Royal Issue, they ought to be extreme cautious of any the least Derogation from the Act of Parliament by which that happy Settlement was made ; and therefore he was of Opinion, and moved, that to the said Resolution for an Address, the following Words be added ; *This House not doubting but your Majesty, in your great Wisdom and Justice to these your Kingdoms, will always preserve to them the full and entire Benefit of the Provision made for the farther securing our Religion, Laws and Liberties, by an Act passed in the 12th and 13th Years of the Reign of his late Majesty King William III. of glorious Memory, whereby it is Enacted, ' That ' in case the Crown and Imperial Dignity of this Realm shall ' hereafter come to any Person not being a Native of this ' Kingdom of England, this Nation be not obliged to engage in ' any War for the Defence of any Dominions or Territories ' which do not belong to the Crown of England, without the ' Consent of Parliament.*

E. of *Strafford*.

Lord *Lechmere* was seconded by the Earl of *Strafford*, who urg'd, ' That the Clause in the Act of Parliament referr'd to in the Addition proposed, being pass'd into a Law, upon so solemn an Occasion, as the settling the Crown of these Kingdoms, and having since been re-enacted upon another very solemn Occasion, was become a fundamental and sacred Part of the Constitution of the United Kingdom, upon the strict and inviolable Observance of which the farther Tranquility of these Nations, and the Properties of the Subjects of *Great Britain* greatly depended : That, indeed, a Case may happen, wherein the Consent of the House of Lords to engage this Nation in a War in Defence of his Majesty's Dominions in *Germany*, may be both just and necessary, but that it being reserv'd to both Houses of Parliament, by the Law above-mentioned, to deliberate and advise upon all the Circumstances, and thereupon to consent to the Justice of the Cause for such a War ; he was convinc'd, that the Words proposed ought to have been added to the Resolution : The rather, because the said Words import the most dutiful and entire Con-  
fidence

fidence in his Majesty's Wisdom, and his Justice to these Kingdoms in that Respect; and would have prevented any Jealousies which might arise in the Minds of the Subjects of this Realm, in a Matter of such high Importance.' But the Question being put, That the said Words be made Part of the Resolution? It was carried in the Negative by 94 Votes against 15.

Anno 12. Geo. I.  
1725-26.

### *Dissentient'*

I. The Clause of the Act of Parliament referred to in the Words proposed to be added, being passed into a Law upon the solemn Occasion of settling the Crown of these Realms upon his Majesty and his Royal Issue, and the same Provision, with others, in that Act made, having been since re-enacted by Parliament upon another very solemn Occasion; we are of Opinion, that it is hereby become a fundamental and a very sacred Part of the Constitution of the United Kingdom, upon the strict and unviolable Observance of which the future Tranquility of this Nation, and the Properties of the Subjects of *Great-Britain*, may, in our Opinions, greatly depend; and therefore we thought the Words proposed fit to be added to a Resolution of this House; wherein the Defence of his Majesty's Dominions and Territories, not belonging to the Crown of these Realms, is, as we conceive, in some Measure engaged for.

Protest on the  
said Clause being  
rejected.

II. We are of Opinion, that the unfeigned Zeal constantly shewn by this House in Defence of his Majesty's sacred Person, and the Honour and true Interest of his Government, can never fail to exert itself in Vindication of his Majesty's Honour against all Insults and Indignities whatsoever; and tho we are far from thinking but that a Case may arise, wherein the Consent of this House to engage this Nation in a War in Defence of his Majesty's Dominions in *Germany* may be both just and necessary, yet it being, in our Judgments, reserved to both Houses of Parliament, by the Laws above-mentioned, to deliberate and advise upon all the Circumstances, and thereupon to consent to the Justice of the Cause whereby this Nation shall at any Time be engaged in a War upon that Account, we are therefore convinced, that the Words proposed ought to have been added to the Resolution.

III. And the rather, because the Words proposed to be added import the most dutiful and entire Confidence in his Majesty's Wisdom, and his Justice to these Kingdoms in that respect; and therefore, if they had been added to the Resolution of this House at this critical Juncture, would, as we conceive, have prevented any Jealousies which might happen to arise in the Minds of the Subjects of this Realm, in a Matter



Anno 12. Geo. I. Matter which we think to be of such high Importance to  
 1725-26. them.

*Strafford, Lechmere, Compton, Scarfsdale, Litchfield, Cra-  
 wen, Bristol, Aberdeen.*

The next Day the House of Lords waited on the King  
 with their Address, as follows :

*Most Gracious Sovereign,*

The Address.

WE your Majesty's most dutiful and loyal Subjects  
 the Lords Spiritual and Temporal in Parliament  
 assembled, humbly beg Leave to return your Majesty our  
 most hearty Thanks for your most gracious Condescension  
 in laying the Treaties of Peace and Commerce made at  
*Vienna*, between his Imperial Majesty and the King of  
*Spain*, and the Defensive Alliance concluded between your  
 Majesty, the most Christian King, and the King of *Prussia*,  
 before this House.

The said Treaty of Commerce plainly appears to us,  
 upon our most mature Consideration thereof, to have been  
 calculated with a View to put the Trade of the *Spanish*  
*East and West-Indies* entirely into the Hands of his Imperial  
 Majesty's Subjects, contrary to the Barrier Treaty made  
 between the Emperor and the States General, to which  
 your Majesty, at their Request, became Guarantee ; as  
 well as in Breach of many solemn Treaties and Engage-  
 ments to the contrary, between the Crowns of *Great Bri-  
 tain* and *Spain*, and to the inexpressible Damage of the  
 Subjects of this Realm.

We cannot sufficiently express our Sense of the infinite  
 Obligations we lye under to your Majesty, for your Care  
 of the Protestant Interest Abroad, and of the Trade of this  
 Nation, by concluding at so critical a Juncture the above-  
 mentioned Defensive Alliance, highly necessary for main-  
 taining the Balance of *Europe*, as well as for the preserving  
 many valuable Rights, Immunities, and Advantages relating  
 to the Trade of *Great Britain* ; and we assure your Majesty,  
 that we will stand by and support your Majesty, to the ut-  
 most of our Power, in the Engagements you have entered  
 into by this Treaty, and in the Prosecution of such farther  
 Measures, as your Majesty in your great Wisdom shall  
 think proper, for preventing the ill Consequences to the  
 Trade of this Kingdom, by the above-mentioned Treaty  
 of Commerce.

We most humbly acknowledge your Majesty's Goodness  
 in not suffering your self to be diverted, through any Sug-  
 gestion

“ gessions or Insinuations whatsoever, from a Work so necessary to the Welfare of your *British* Subjects. Anno 12. Geo. I. 1726.

“ They must have the meanest Thoughts of this Nation, who can imagine us capable of tamely suffering any Insult or Indignity to be offer'd to your Majesty, on Account of your Majesty's Firmness in maintaining the true Interest and Happiness of your People : But Justice, Gratitude, and Honour fill our Hearts with very different Sentiments; and make it our indispensible Duty to assure your Majesty, upon this Occasion, That if your Majesty shall be at any Time insulted or attack'd by any Prince or State whatsoever, in any Part of your Majesty's Dominions or Territories, not belonging to the Crown of *Great Britain*; in Resentment of such Measures as your Majesty has taken for preserving and maintaining the Trade and Safety of this Kingdom, and of your Majesty's having entered into the said Defensive Alliance for that Purpose ; we are fully determin'd, in Vindication of your Majesty's Honour, to exert ourselves to the utmost in defending and protecting such Dominions from any such Insults and Attacks.

His Majesty's Answer was to this Effect :

*My Lords,*

“ I Thank you kindly for this most seasonable and loyal Address ; the true Concern you shew for your Country is no less acceptable to me, than the Regard you express for my Honour. The Assurances you give me in relation to my Territories Abroad, will, I am persuaded, contribute very much to the preserving the publick Peace of *Europe* ; and you may depend upon my making no other Use of that Confidence, which is so firmly established between us, than to maintain and promote the Welfare of this Kingdom. The King's Answer.

On the 20th of *April* there was a Debate in the House upon this Occasion: On the 24th of *March* last, his Majesty having sent a Message to the House of Commons\*, importing, That he hoped, he should be enabled by the Assistance of his Parliament, to increase the Number of Seamen already voted; and the said Message not having been communicated to the House of Peers, the Earl of *Strafford* took Notice of it ; and upon his Motion, this Day being appointed for taking the said Message into Consideration, his Lordship endeavour'd to shew, ' That the same was unprecedented, and struck at the ancient Privileges of the House of Peers, who are the grand standing Council of the Sovereign ; the hereditary Guardians of the Liberties and Properties of the People, and

E. of *Strafford* complains of a Message for an additional Number of Seamen being sent to the House of Commons only ;

1726. L 1 1 next

\* See *Chandler's History of the Commons*, p. 369.

**Anno 12. Geo. I.** next the King, the principal Part of the Legislature, and who therefore have a Right to be consulted in all Matters of publick Concern. Concluding, That an Address be presented to his Majesty, to know who advised his Majesty not to send the same Message to the House of Peers, as was sent to the House of Commons.

**1726.** And moves for an Address to the King, to know who advised his Majesty to do so. Hereupon the Lord *Trevor* \* moved, That the farther Consideration of that Matter be adjourn'd for a Month ; and was seconded by the Duke of *Devonshire* : To this Lord *Lechmere* replied, ' That the Subject of this Debate was of so great Consequence to his Majesty's Service ; to the Honour of that Assembly ; to the ancient Constitution of Parliament ; and to the Prosperity of the Kingdom, That it ought not to be postponed at all, much less for such a Length of Time, as amounted to a laying it entirely aside. That it must be for the Service of the Crown, upon all Occasions, to have the Advice of both Houses of Parliament ; and as the Message in Question was only sent to the Commons, and there had not yet been any Communication with their Lordships upon it, tho' it contain'd Matters of the highest Importance, it tended to undermine the very Foundation of the House of Peers, and of the ancient Constitution of the Kingdom. That the Rights of the People of *England* were, in some measure, invaded, whenever they were deprived of the Assistance of that House of Parliament, without whom no Aid can be given to the Crown, nor any Taxes laid on the Subjects : And therefore if this Debate should be adjourn'd to so long a Day, it might be infer'd from such a dilatory Proceeding, that their Lordships were not as jealous of their own Privileges, and of the Rights and Properties of the People, and as much determin'd to support and defend them, as any of their Predecessors : That it was the undoubted, and inherent Right of the House of Peers, to alter and amend all Money-Bills which came from the Commons ; and tho' in some late Instances, the Commons had disputed that Right ; yet the Lords had never fail'd to assert it. That, according to ancient Usage, all Demands of Supply should come from the Throne in the House of Peers, and therefore all other Methods are Unparliamentary, new and dangerous to the Constitution : ' All which Assertions his Lordship corroborated by several Precedents upon Record, which, at his Desire were ordered to be read. Lord *Lechmere* was answer'd by the Lords *Onslow* and *Townshend* : but they were replied to by Lord *Bathurst*, who took notice, ' That the Appellation of Parliament being given to the Commons separately from the Lords, was entirely unprecedented ; that this was so far from

Debate thereon.  
D. of Devonshire.  
Ld Lechmere.

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Ld Onslow.  
Ld Townshend.  
Ld Bathurst.

\* Appointed Lord Privy-Seal, March 6th, 1725-26.

from being the Language of former Times, that tho' of Anno 12. Geo. I. late the Commons took upon them to begin all Money-Bills, yet there was a Time when they were so inconsiderable, as to apply to the Lords, to desire them to provide Money for the publick Service; that if the Lords suffer'd themselves to be overlook'd in this manner, they might come, at last, to be voted useles, as they had formerly been: And therefore lest any Mistake of this Kind should be attended with such ill Consequence, his Lordship was of Opinion, that proper Notice should be taken of it immediately, instead of deferring the farther Consideration of it for a Month.' Hereupon the Earl of *Scarborough* stood up, and said, 'That he did not deny, that the Peers have a Right to be advised with, in all Matters of Importance, and to give their Consent to Money-Bills: But, that in the Case before them, it seem'd needless to send the Message to their House, because their Lordships had implicitly given their Consent to the augmenting the Number of Seamen, in their Address of Thanks to his Majesty, wherein the said Augmentation was hinted at: That indeed formerly the Commons applied to the Lords to provide Money for the publick Service; because, at that Time, none else had any Money to give, most of the Lands being then in their Hands; whereas since the Reigns of *Henry VII.* and *Henry VIII.* the Case is very much alter'd; and that therefore they ought not to consider how Things were formerly, but how they are at present, and so act as they find them. The Earl of *Scarborough* was reply'd to by the Lord *Lonfdale*, who was back'd by the Earl of *Chesterfield*. The Duke of *Newcastle* having answer'd them, Lord *Bathurst* reply'd to his Grace; upon which the Lord *Townshend* spoke again, and was supported by the Lord *Falmouth*. To these Lord *Lechmere* and the Earl of *Strafford* replied; but they were answer'd by the Lords *Trevor* and *Harcourt*. At last, the Question being put upon the Lord *Trevor's* Motion, it was carried in the Affirmative, by 59 against 31.

1726.

E. of Scarborough.

Ld Lonfdale.  
E. of Chesterfield,  
D. of Newcastle,  
Ld Bathurst.  
Ld Townshend.  
Ld Falmouth.  
Ld Lechmere.  
E. of Strafford.  
Ld Trevor.  
Ld Harcourt.

### *Dissentient'*

I. Because we conceive the Subject-Matter of this Debate to be of so great Consequence to his Majesty's Service, to the Honour of this House, to the Constitution of Parliament, and to the Prosperity of the Kingdom, that it ought not to have been postpon'd at all, much less for such a Length of Time: It must be for the Service and Support of the Crown to have the Advice of both Houses of Parliament upon all Occasions; and as the Message taken Notice of was only sent to the House of Commons, there has hitherto been no Communication with this House thereupon, tho'

Protest on Lord Trevor's Motion being agreed to,

1726.

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Anno 12. Geo. 3. it contains Matters of the highest Importance ; and we conceive, that it tends to undermine the very Foundation of this House, when the Lower House is alone advised with upon any Matter which concerns the Interest of the whole Kingdom.

1726.

II. As this House has always been esteemed the hereditary and perpetual Guardians of the Liberties and Properties of the People, they ought not to be excluded from giving their Advice in all Matters of publick Concern ; and the Rights of the People of *England* are, as we apprehend, invaded, whenever they are deprived of the Assistance of this House of Parliament, without whom no Aids can be given to the Crown, nor no Taxes imposed on the People ; therefore, as we conceive, this Message being sent to the House of Commons *only*, tends to subvert those Rights : We think this Debate should not have been adjourn'd, lest any Inference should be drawn from this dilatory Proceeding, that this House is not as jealous of their Rights and Privileges at this Time, and as much determin'd to support them, as any of their Ancestors have formerly been.

III. Since it cannot be doubted, that it is an inherent and fundamental Right in this House to alter and amend all Money-Bills which come from the Commons, we cannot but apprehend also, that Demands of Supply should come from the Throne in this House of Parliament, according to ancient Usage ; and we conceive, all other Methods of demanding Supplies are new, and must be dangerous to the Constitution.

IV. Because there is an Expression in the Message which we apprehend to be entirely unprecedented, and never before used in any Message to the House of Commons, the Appellation of Parliament being given to them seperately from this House ; and therefore, lest any Mistake of this Kind should be attended with such ill Consequences as to encourage evil Ministers hereafter to a total Neglect of this House, we conceive, that proper Notice should have been taken of it immediately, without deferring the further Consideration thereof for a Month.

*Scarjdale, Aberdeen, Strafford, Coventry, Gower, Abburnham, Boyle, Compton, Exeter, Craven, Bruce, Litchfield, Montjoy, Lechmore, Warrington, Batemst, Uxbridge, Foley.*

The Consideration of the said Message farther adjourn'd. May 18. The Order of the Day being read, for taking into farther Consideration that Part of the printed Votes of the House of Commons, of the 24th of *March* 1725, purporting to be a Message to that House from his Majesty. under

under his Royal Sign Manual : And the same being read by the Clerk, after Debate it was ordered, That the farther Consideration of that Part of the said printed Votes be adjourn'd to this Day Fortnight.

Anno 13. Geo. I.  
1726-27.

Then the House being moved, That an Address be presented to his Majesty, representing the fatal Consequences which must happen to this Kingdom, when any Advice shall be given to the Crown, whereby the Council and Assistance of this House shall not be asked, at the same Time that the Council and Assistance of the House of Commons shall be asked, in Matters which concern the Peace and Safety of this Kingdom, and most earnestly to beseech his Majesty, that he will, for the future, discourage all such Councils as shall tend, in so unwarrantable and dangerous a Manner, to the Destruction of the Rights of this House. After Debate, the Question was put, Whether such an Address shall be presented to his Majesty? It was resolved in the Negative.

*Dissentient*

*Leckmere,*

*Montjoy.*

The same Day a Bill, *For the more effectually preventing Bribery and Corruption, in the Election of Members to serve in Parliament*, being read a second Time, it was ordered, That the said Bill be committed to a Committee of the whole House.

Motion for committing the Bribery-Bill passes in the Negative.

Then it being proposed, That the House be put into a Committee on the said Bill To-morrow ; the same was objected to. After Debate, the Question was put, Whether this House shall be put into a Committee on the said Bill To-morrow ? It was resolved in the Negative.

*Dissentient*

*Warrington, Leckmere, Montjoy, Gower, Foley, Batburs.*

May 24. The King came to the House, and prorogued the Parliament to the 21st of July.

The Parliament prorogued.

\*\*\*\*\*

## *The FIFTH SESSION of the SECOND PARLIAMENT of King GEORGE I.*

ON the 17th of *January*, the Parliament being met at *Westminster*, the King came to the House of Lords, and opened the Session with a Speech \* to both

\* See the Speech in Chandler's History of the Commons. p. 372.

Anno 13. Geo. I. both Houses. The next Day the Lords presented the following Address of Thanks.

Address of  
Thanks for the  
King's Speech at  
opening the fifth  
Session.

*Most gracious Sovereign,*  
WE your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, beg Leave to return your Majesty our hearty Thanks for your Majesty's most gracious Speech from the Throne. We cannot but esteem ourselves in Duty bound most humbly and gratefully to acknowledge your Majesty's exceeding Goodness, in opening to your Parliament a Scene of the highest Importance to this Kingdom. The World must now be convinced, that the Courts of Vienna and Madrid, have laid the Foundations of such an exorbitant and formidable Power, as may, in Time, overturn the Balance, and destroy the Liberties of Europe. Were we not filled with the deepest Resentment at the Indignities which have been offered to your Majesty, we should be unworthy of all the Blessings we enjoy under your Majesty's most gracious and excellent Government. The Invasions made upon the Rights and Privileges of your People, in the most important Branches of their Commerce; the Menaces and Insults used towards your Majesty; the peremptory Demand of the Restitution of Gibraltar, which Place, and the Island of Minorca, both being of the utmost Consequence to your People, were yielded up by the present King of Spain himself, and do indisputably belong to the Crown of Great Britain by most solemn Treaties: But, above all, the Engagements enter'd into for placing a Popish Pretender upon your Throne, must raise the warmest Indignation in all those who have the least Sense of their Duty to the best of Sovereigns, and any Regard to the Protestant Religion, to the Honour, Interest, and Prosperity of their Country. We are truly sensible of the wise Measures taken by your Majesty for preventing the Dangers which threatned us; your early Care in forming and entering into the Defensive Alliance, to which the Accession of the States General has added so great a Weight; the establishing a perfect Harmony, Union and Concert between your Majesty, the most Christian King, and the States General; the several Negotiations which your Majesty, in Conjunction with your Allies, is carrying on with Sweden, Denmark, and other Powers; and the shewing the Power and Influence of your Naval Force, by the seasonable Equipment of three considerable Squadrons, are the apparent Causes to which, next under God, we owe the Preservation of the publick Peace, and the preventing the Execution of those de-

destructive and unjust Designs that had been formed against Anno 13. Geo. I.  
 this Nation, and the Liberties of *Europe*. The very 1726-27.  
 great Satisfaction your Majesty is pleased to express at the  
 Happiness of your People, in their full Enjoyment of  
 Peace, Ease, and Prosperity; your tender Concern, for  
 their Sake, at the Prospect of any new Commotions, and  
 your continual Care every where to preserve and maintain  
 the undoubted Rights and Privileges of all your Subjects,  
 cannot but fill their Hearts with the most grateful Sense  
 of their Duty, and raise in them the utmost Detestation  
 and Contempt of the vain Imagination of placing a Po-  
 pish Pretender on the Throne. We do therefore, at this  
 important Juncture, most humbly beg Leave to assure your  
 Majesty of our steady and unshaken Fidelity, and that no-  
 thing shall ever divert or deter us from making our strong-  
 est Efforts, for maintaining your Majesty's undoubted  
 Right and Title to the Crown of this Realm, and for pre-  
 serving our present happy Establishment: And we beseech  
 your Majesty to believe, that we will, to the utmost of  
 our Power, enable your Majesty to make good all your  
 Engagements with your Allies, and to preserve the Trade  
 of this Kingdom in its utmost Extent; to vindicate your  
 Honour, and to assert and defend your Right to *Gibrat-*  
*tar*, and the Island of *Minorca*, which are of the greatest  
 Importance to the Preservation of the Commerce and Na-  
 val Strength of *Great Britain*; and to maintain your  
 Right to every other Part of your Dominions, against all  
 Attempts whatsoever; and that we shall, at all Times, be  
 ready to concur in such proper Measures, as may effectually  
 enable your Majesty, in Conjunction with your Allies, to  
 bring to Reason all such Powers, as shall at any Time dis-  
 turb the general Peace and Tranquility of *Europe*.'

His Majesty's Answer to this Address, was as follows :

*My Lords,*

" I Thank you heartily for this very dutiful and loyal Ad- His Majesty's  
 " drefs; your warm Concern for maintaining my Ho- Answer.  
 " nour, and the Rights of my Crown, and for preserving  
 " the Trade of this Kingdom, is a fresh and very season-  
 " able Instance of your Love to your Country, as well as  
 " of your Duty and Affection to me.

" Your Approbation of the several Measures I have taken  
 " for preserving the publick Peace and Tranquility, and se-  
 " curing the Rights and Privileges of my People against all  
 " Usurpations, gives me great Satisfaction.

" I entirely depend on the many faithful and affectionate  
 " Assurances you have given me in this Address: You may



Anno 14. Geo. I. " as absolutely depend on my constant Endeavours to pro-  
 1726-27. " mote the Happiness of all my People."

Debate on the  
 King's Speech.  
 E. of Strafford.

*January 24.* The House, in a grand Committee, took in-  
 to Consideration his Majesty's Speech, which being read by  
 the Clerk, the Earl of *Strafford* took Notice, ' That it  
 contain'd Matters of the highest Importance to the whole  
 Nation, and which therefore ought to be maturely weigh'd,  
 the rather because his Majesty, undoubtedly, expected the  
 Advice of both Houses; and in particular of that Assembly,  
 which is the standing Council of the Crown. That besides  
 his Majesty's Speech, several Papers relating to the present  
 critical Juncture, had been laid before them, which seem'd  
 to require more Time than they had been allow'd to exa-  
 mine into them: But since they were call'd upon it, on so  
 short a Warning, his Lordship moved, That the House  
 might resolve itself into a Grand Committee, to take those  
 important Matters into their Consideration.' This Motion  
 being unanimously agreed to, the House went into a Grand  
 Committee; and the Clerk read the Titles of the several  
 Papers laid before the House, consisting chiefly of Letters  
 and Memorials, that had pass'd between the Ministers of *Great  
 Britain, France and Spain*, and the Act of Accession of  
 the *States General* to the *Hanover Treaty*.

Ld Bathurst.

After the Reading thereof, Lord *Bathurst* open'd the De-  
 bate, and took Notice, ' With what Circumspection the  
*States General* had acted in this whole Affair. That they  
 had not fully and entirely acceded to the Treaty of *Hanover*,  
 since they had formally and expressly excused themselves  
 from the General Guaranty of the Treaties of *Westphalia*  
 and *Oliva*, in which they said, they were never engaged;  
 and as to the Business of *Thorn*, they had only promised  
 to employ their friendly Offices for obtaining a reasonable  
 Satisfaction: So that they acceded only upon Account of  
 the 5th and 6th Articles of the Treaty of *Munster*, for pre-  
 serving and maintaining their Rights with respect to Com-  
 merce; whereas by the Treaty of *Hanover*, *Great Britain*  
 and *France* stood engaged to guaranty to the *Dutch*, not on-  
 ly the said 5th and 6th Articles of the Peace of *Westpha-  
 lia*, but likewise the *Barrier Treaty*; and the Treaty of  
*Oliva*, in favour of the Protestants of *Germany*: And thus,  
 what they had done did not deserve the Name of *Accession*,  
 the rather because they had made it an express Condition,  
 That their Act of Accession should be approved and ratified  
 by the King of *Great Britain*, the most Christian King,  
 and the King of *Prussia*: But tho' this last Potentate, was  
 one of the principal Contractors in the Treaty of *Hanover*,  
 yet no Mention being now made of him, his Lordship could  
 not

not tell what to make of it. That it seems his Minister Anno 13. Geo. 1.  
 had refused signing the said Act of Accession, probably 1726-27.  
 upon account of the *Dutch* excusing themselves from the  
 general Guaranty: But let his Reasons, for receding from  
 his Engagements, be what they would, his Example might  
 be of a very dangerous Consequence, for by a Letter from  
 the Duke de Bournonville, the *Spanish* Minister at Vienna, it  
 appear'd, That they were not without Hopes at the Impe-  
 rial Court, That *France* might thereby think herself disen-  
 gaged from the *Hanover* Alliance: In which Event *Great*  
*Britain* alone must bear the Burden of an expensive War  
 with two of the greatest Potentates in *Europe*. That the  
*Dutch* receiving far greater Advantages, than *Great Britain*,  
 from the *East India* Trade, and consequently being more  
 concern'd than We in the Suppression of the *Ostend* Com-  
 pany, ought, at least to bear an equal Share with us in the  
 Expences of this War; and guaranty to us the Possession  
 of *Gibraltar*, in the same Manner as *Great Britain* gua-  
 ranties to them their *Barrier*. That his Lordship did not  
 see any just Reason for a Rupture with *Spain*. That, in-  
 deed the Duke de Ripperda might have drop'd some indis-  
 creet Expressions; but that he was known to be a hot-  
 headed Man; and Princes have a Right to disavow the In-  
 discretions of their Ministers, which the King of *Spain* had  
 done, in a most solemn Manner, with relation to *Ripperda*.  
 That 'twas well known, that violent Ministers do many un-  
 accountable Things: And if their idle Expressions were a  
 just Foundation for War, Nations would ever be at Dag-  
 gers drawing. That, for some Time past, the Emperor  
 had been treated here very cavalierly by some Persons; and  
 that, in the Memorial the Marquis de Pozzo Buono left be-  
 hind him, at his Departure, it was suggested, That the vio-  
 lent State to which Affairs are now reduced, is owing to the  
 Ministers of *England*. That, in the same Memorial, Men-  
 tion is made of a positive Promise by the King of *Great*  
*Britain*, for the Restitution of *Gibraltar*: which could not  
 be supposed to have been said without some Foundation;  
 and therefore it would be highly necessary to inquire, whether  
 such a Promise was ever made; and whether any Thing  
 like it was mention'd in the Treaty concluded at *Madrid*?  
 That all possible Methods of an amicable Accommodation  
 ought to be try'd before they engaged in a War, which, in  
 our present Circumstances, might be attended with very dan-  
 gerous Consequences. That the Nation is loaded with a  
 Debt of above Fifty Millions: That tho' they are told of  
 a Sinking-Fund applied to the gradual Discharge of that  
 Burden, yet it was more to be wish'd than expected, that  
 the Operation of that wise Contrivance should suffer no In-  
 terruption,

Anno 13. Geo. I.  
1726-27.

terraption, by the Exigencies inseparable from a War. That one of our best Mathematicians has foretold, That if ever *England* raises above Five Millions in a Year, it will infallibly be exhausted in a few Years: That if, at this Juncture, we should enter upon a War, and not meddle with the Sinking-Fund, according to the Scheme of those in the Administration, they must be obliged to raise, at least, seven Millions a Year upon the People of *England*; the Consequence of which was obvious to any one who admitted the Principle of that great Mathematician. That in some of the Papers laid before the House, Mention was made of great Sums of Money distributed to bring some Measures to bear: That for his own Part, he had touch'd neither *Spanish* nor *English* Gold; he was neither a *Spaniard* nor a *Frenchman*; but a true *Englishman*; and as long as he had the Honour to sit in that House, he would speak and act for the Good of his Country. That therefore he would sum up all he had said, with earnestly desiring their Lordships seriously to consider the Matter before them, which was of the last Consequence and Importance to the whole Nation: What (said he) can we get by a War, if it be a successful one? I'll say it in one Word, Nothing. What can we lose if it be unprosperous? I'll say it in one Word, in a Syllable, All.

D. of Argyle.

The Duke of *Argyle* stood up next, and took Notice of an Insinuation in Lord *Bathurst's* Speech, grounded on a Suggestion from the Duke of *Bourbonville*, as if the Court of *France* might think themselves disengaged from the *Hanover* Alliance, on account of one of the contracting Parties in that Treaty, withdrawing himself from it: But that he might assure the House, that the King of *France* stood firm to his Engagements, and, in the Course of this whole Affair, had acted in perfect Concert with his *Britannick* Majesty: To evince which, his Grace desired, That the Clerk might read the Letters on the Table, from Count *de Morville*, Secretary of State to the most Christian King, to Mr *Walpole*, the *British* Ambassador in *France*, and to Signior *Maffei*, the Pope's *Nuncio* at *Madrid*, which were read accordingly, and gave great Satisfaction to the House.

Ld Townshend.

The Lord *Townshend* stood up next, and in Answer to Lord *Bathurst* alledged, ' That the Treaty of *Hanover* being purely defensive, had made no Alteration in the Treaties subsisting before, either between the contracting Powers, or other Princes and States; That the true Aim and Intention of this Alliance was a reciprocal Guaranty for the protecting and maintaining the Dominions and Countries, both in and out of *Europe*, whereof each of the Allies was actually possess'd, at the Time of the signing of this Alliance: So that

that by acceding thereto, the Crowns of *Great Britain* and *France* became Guarantees of the Vth and VIth Articles of the Treaty of *Munster*, by which the *Dutch* are intitled to exclusive Rights and Privileges of Trade in the *East-Indies*: But that this Guaranty was reciprocal between *Great Britain* and the States General, since by the Treaty of 1667, *Spain* had granted to *England* the same Rights and Privileges which the *Dutch* enjoy'd by the said Vth and VIth Articles of the Treaty of *Westphalia*; That therefore the suppressing of the *Ofend* Company, which manifestly invaded those exclusive Rights and Privileges, was become a common Cause between us and the *Dutch*; that our Concern therein is almost equal to theirs; since our *East-India* Trade brings about 300,000 l. a Year into the Customs, which being part of the general Mortgage, if so considerable a Branch of Trade should be lost, that yearly Sum would be taken from the Sinking-Fund. That by former Treaties *Great Britain* was Guarantee to the *Dutch* for their Barrier in the *Netherlands*, as reciprocally, by the same Treaties, they were Guarantees to *Great Britain* for the Protestant Succession: So that, in those respects, we stood no more engaged to them, than they to us. That, indeed, by their Act of Accession to the *Hanover* Alliance, the States General exempt themselves from the general Guaranty of the Treaties of *Westphalia* and *Oliua*, to which they never stood engaged; but nevertheless, by the same Act they engage themselves to employ jointly with *Great Britain* and *France*, their friendly Offices for obtaining a reasonable Satisfaction and Reparation, as to the Infractions which might have been made in the Treaty of *Oliua*; which is as much as the contracting Powers have engaged themselves to, by the first secret Article of the Treaty of *Hanover*; and is, indeed, as little as the Protestant Potentates could do, in Commiseration of the great Severities lately exercised against the Protestants of *Thorn*. That as to the indecent Expressions of the Duke de *Ripperda*, they were not alledg'd as a just Foundation for a Rupture with *Spain*; but only as corroborating Indications of an Offensive Alliance between that Prince and the Emperor, of which there were such convincing Proofs, as left no room to doubt it. That as to the secret Article of that Alliance in favour of the *Pretender*, his Majesty had receiv'd from several Parts such positive Informations, that if the Safety of the State permitted to lay those Advices before the House, they would no more question the Certainty of such an Article, than if they had been present at the signing of it. But his Lordship hoped that illustrious Assembly would not think any of his Majesty's Servants, who had the Honour

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to fit amongst them, so audacious as to tell them downright Untruths, or to presume to impose upon their Lordships by alledging Facts of so great Importance, without sufficient Vouchers. That as to the other Articles of the secret offensive Alliance, relating to the supporting of the *Osford* Company, and the Restitution of *Gibraltar*, the King of *Spain* and his Ministers, were so far from denying them, that on the contrary, they did not scruple publicly to avow them. That hereupon his Majesty could not, in Prudence, but take early and proper Measures to oppose an Alliance so directly levell'd against his Crown and Dignity, and invasive of the most valuable Rights and Privileges, acquired to his Subjects by the most solemn Treaties. That, at the same Time, notwithstanding these high Provocations, his Majesty shew'd his Inclination and Disposition to an amicable Accommodation; and with this View, it was intimated to the Courts of *Vienna* and *Madrid*, That if the Emperor would remove the *Osford* Company to *Trieste*, or any other Place in his Dominions, which did not heretofore belong to the *Spanish* Monarchy, *Great Britain* would quietly acquiesce: But instead of accepting this Proposal, those two Courts not only seem'd resolv'd to support the *Osford* Trade, but *Spain*, in the Memorial lately presented by the Marquis de *Pozzo Buono*, insisted on the speedy Restitution of *Gibraltar*, by virtue of a pretended positive Promise, which exists no where; which put his Majesty, and the whole Nation, under the Necessity of a vigorous Self-Defence.

Lord Bingley.

Lord Bingley urg'd, ' That in our present Situation, we should use all possible Methods to avoid entering into a War, which might prove of long Continuance, and of which we should be oblig'd to bear the main Burden, without any Prospect of real Advantage in the Conclusion. That we were involv'd in an immense Debt, which could not be increased (as it would infallibly, in the Progress of the War) without endangering the Nation's sinking under the Load. That the Distractions which now threaten'd the Peace of *Europe*, were mainly owing to our fluctuating Councils. That after a long and expensive, but most glorious War, we had, at last, compass'd the main End of the grand Alliance, which was to give the House of *Austria* a reasonable Satisfaction, and to settle the Balance of Power in *Europe*, both which were effectually done by the Peace of *Utrecht*. But that upon his Majesty's Accession, some Persons made it their Business to exclaim against all that had been done in the former glorious Reign. That they had made the Power and Riches of *Great Britain* subservient to the boundless Ambition of the House of *Austria*; having, in Concert with

*France,*

*France*, form'd the Scheme of the Quadruple Alliance, and put the Emperor in Possession of *Sicily*, which bore down the Scale on his Side, and entirely overturn'd the Balance of Power. That we were never told what Recompence *Great Britain* was to have for our excessive Complaisance to the

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Emperor, (as was own'd in a late \* Treatise wrote to justify the present Measures,) in which it is alledged, ' That we ' were hastening apace to make the Emperor a Power too ' great and too formidable; and that we should find in ' him, at last, the Enemy we then dreaded only in another.' Neither was it yet known what Equivalent *Great Britain* was to have for *Gibraltar*, the Restitution of which the most Christian King undertook to procure to the King of *Spain*, and which undoubtedly the Regent of *France* would not have mentioned in the Manifesto against *Spain*, unless he had obtain'd a previous Promise for it. That whatever Grounds there were for these Counsels, the Reason now given for runing counter to them, is still the same; to wit, That it is the Prerogative, as well as the Interest of *Great Britain*, to hold the Balance of Power in *Europe*. That he did not absolutely deny this Maxim: But as it might serve to justify any Rupture, it ought to be confined within proper Bounds; for if this Prerogative were wantonly exerted, it might engage us in perpetual Wars; and, at last, prove fatal to our Trade, the main Spring of our Wealth and Power. That the Republick of *Venice* was a pregnant Instance of this Truth, and a standing Warning to all trading Nations: For by their refined Politicks, and meddling too far in the Differences of the great Potentates of *Europe*, under Pretence of holding the Balance, they first lost their Commerce, and soon after their Greatness and Consideration. That by our late Quarrels with *Spain*, that Branch of our Trade, which heretofore was very considerable, is almost entirely lost; and if upon Account of the unprofitable, not to say ruinous Trade to the *East-Indies*, we should now engage in a War against the Emperor, it will endanger the Loss of the great and profitable Commerce we drive in *Germany*: Concluding, That we ought to try all possible Means to bring Matters in Dispute to an amicable Accommodation to which the Emperor seem'd not disinclined.'

The Earl of *Peterborough* said, ' That let our Circumstances be what they would, we ought to exert ourselves for the Honour and Dignity of the Crown, and defend the just Rights and Privileges of the Nation.' Lord *Carteret* † answered

E. of Peterborough.

Ld. Carteret.

\* The Inquiry into the Reasons of the Conduct of Great Britain, said to be wrote by Dr. H----y, now Bishop of W----r.

† Lord Lieutenant of Ireland.

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swer'd Lord *Bingley*, urging, ' That it was no Wonder that Noble Lord so highly applauded the Peace of *Utrecht*, and ascribed our Misfortunes to the Measures pursu'd in this Reign : For this Way of Reasoning became well enough those who had gone so great Lengths with the late Queen's last Ministers. Nor was it, for the same Reason, at all surprizing, his Lordship should give so melancholy a Prospect of our Affairs : That the Courts of *Vienna* and *Madrid* undoubtedly entertain'd the same Notions of *Great Britain*, else they would not dare to insult us ; to offer Indignities to his Majesty, and to treat our Ministers with Contempt, making them wait in an Anti-Chamber for a *Cedula* : That we ought not invidiously to inquire into the Causes of our Misfortunes ; but consider of proper Means to do ourselves Justice, and to make suitable Returns to his Majesty's Paternal Care, in laying before his Parliament the present State of Affairs in *Europe*, and the Measures taken to prevent the Dangers that threaten'd us : That we want neither Wealth nor Strength, and, he hoped, we should not want Spirit to assert our Rights, and to maintain his Majesty and his Royal Progeny on the Throne : That the Example of the Republick of *Venice* far from deterring us, ought rather to excite us to make our last Efforts to support the Commerce of these Kingdoms, against the Encroachments made upon it, contrary to the most solemn Treaties ; for the Decay of that powerful State was not owing to their meddling with the Differences among the Potentates of *Europe*, but rather to the Loss of the great Trade they carried on in the *East-Indies*, thro' the *Red Sea* ; by reason of the Settlements which the *Portuguezs*, and after them the *Dutch*, and other Nations, made there : That our Share in the *East-India* Trade is neither so inconsiderable, nor so unprofitable, as some were pleas'd to represent it : That, indeed, as that Commerce drains *Europe* of a great deal of Silver, and returns only trifling Commodities, that serve to feed Luxury, and which consequently we might be without it were, perhaps, to be wish'd that it might be entirely laid aside : But that this must be done by the general Consent of all the States concern'd in it ; otherwise they who gave it up would be oblig'd to buy at a dear Rate of them who should carry it on, those Commodities which Custom have render'd in a manner necessary : That as to the Trade to *Spain*, we have, for many Years past, lost a great Part of it : But that, on the other Hand, we have very much enlarg'd our Dealings with *Portugal*, which are far more advantageous to us. And as for our Trade to *Germany*, tho' the Emperor may cramp and restrain it, in his Hereditary Dominions, as he has already done

by

by prohibiting several of our Commodities, that Loss is inconsiderable, since he cannot deprive us of our Commerce to the other Parts of the Empire, and the *North*, by the Way of *Hamburg*, *Dantzick*, and other *Hanse Towns*. That tho' in many Things he differed from the noble Lords, who spoke on the other Side, yet he agreed with them, That Peace is more eligible than War, especially for a Trading Nation; and therefore that all possible Methods of Accommodation ought to be try'd. That it was yet uncertain, whether we ought to look upon the Emperor and the King of *Spain* as Friends or Enemies? That the best Friends may sometimes fall out; but as no Prince has a Right to encroach upon others, the most effectual Way to restore Amity, was to come to vigorous Resolutions; and to put ourselves in a Posture of doing ourselves Justice.

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Lord *Lechmere* endeavour'd to shew, ' That we stand upon very unequal, very unreasonable, and very unjust Terms with the *Dutch*, in this new Alliance: That their Act of Accession was in Reality no Accession at all; since they exempt themselves from the General Guaranty of the Treaties of *Munster* and *Oliva*, and of any Possessions in Dispute, whereas we stand engaged to guaranty all their Pretensions to Trade, and their Barrier in the *Netherlands*: Adding, That the Guaranty of the Treaty of *Oliva* mentioned in the first separate Article of the Treaty of *Hanover*, was not confined to good Offices, but extended to see that Treaty supported, maintain'd and observ'd to all Intents and Purposes: That the King of *Prussia*, one of the original contracting Powers in the Treaty of *Hanover*, having refused to sign the said Act of Accession, seem'd thereby to have renounc'd or withdrawn himself from that Alliance, since by the seventh Article of it, the States General were particularly invited to accede to it: That they wanted several Informations relating to the Negotiations and Measures mention'd in his Majesty's Speech; which were the Subject-Matter of their present Consideration, and ought to be well examin'd into, before they approved those Measures.

His Lordship being answer'd by the Duke of *Argyle*, the D. of *Argyle*.

Lord *Townshend* moved, ' That it fully appears to this Committee, upon Consideration of his Majesty's Speech, and the Letters and Memorials laid before the House by his Majesty's Order, That the Measures his Majesty has thought fit to take were honourable, just, and necessary for preventing the Execution of the dangerous Engagements enter'd into in Favour of the *Pretender*, for preserving the Dominions belonging to the Crown of *Great Britain* by solemn Treaties, and particularly those of *Gibraltar* and the Island of *Minorca*, and

Ld Townshend moves to resolve, That his Majesty's Measures were honourable, just, and necessary.



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and for maintaining to his People their most valuable Rights and Privileges of Commerce, and the Peace and Tranquillity of Europe.' Then the Question being put upon the said Motion, it was agreed to by a great Majority.

Which is agreed to.

The House being resum'd, the Lord *De la War* reported the said Resolution; and the same being twice read, the Question was put, whether to agree with the Committee in this Resolution? It was resolved in the Affirmative. Content 98, Not Content 25.

### *Dissentient'*

Protest against the said Resolution.

I. The Resolution of the Committee being not only a Justification of the Measures therein mention'd, but tending to approve the Counsels which have been given to the Crown relating thereto, we can by no Means agree, that it fully appears they were honourable, just, and necessary, before they have been maturely and distinctly consider'd; the only Question as yet debated in the Committee (except the Resolution) being upon an Address of Advice to his Majesty for obtaining a further Security from and Confidence with his Allies, in case of a Rupture; which Address appeared to us more reasonable and necessary, in the present Conjunction, than any Vote of Approbation; we therefore cannot concur in approving Measures and Counsels not yet examin'd into, the further Consideration whereof may be also precluded by this Resolution.

II. The Papers hitherto laid before the House, in order to the Consideration of his Majesty's Speech, are such only as concern'd the Accession of the States-General to the Treaty of *Hanover*, and the Letters and Memorials since the Arrival of the *British* Fleet on the Coast of *Spain* in *America*; but none of the Negotiations or Measures (which we suppose to have been many) that have been carried on between the Courts of *Great Britain* and *Vienna*, and the Northern Powers, which his Majesty's Speech and the Resolution also may have relation to, have as yet been communicated to this House: But all those Measures, and many others unknown (as we believe to this House) are in our Opinions, intended to be approv'd and justified by this Resolution; to which therefore we cannot concur, no more than if it had declared the Measures honourable, just, and necessary, which shall hereafter be taken for the Purposes therein mention'd.

III. Altho' we rely, in the most dutiful Manner, on the Declaration made from the Throne concerning a secret dangerous Engagement for placing the *Pretender* on the Throne of these Kingdoms; yet finding by the Papers laid before the House, that any such Engagement or Measure, for putting the same in Execution, is absolutely denied on the Part of

of the Crown of *Spain* (one of the supposed Parties to the said Engagement) we cannot agree to the Resolution, because Time may evince, that the Informations his Majesty has receiv'd concerning that Engagement were not justly grounded; and the Measures taken to prevent the Executions of them (whatever they were) not having been as yet particularly consider'd, we cannot declare them honourable, just, and necessary.

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IV. We find it charg'd in one of the Papers laid before the House, that very considerable Sums of Money have been sent and employ'd in *France, Holland, Prussia, Sweden*, and other Places, to promote and accomplish the Designs of the *British* Court; which Insinuation, as vile as we think it is, the Committee have not yet taken the same into their Consideration, tho' a thorough Examination into the Grounds of that Insinuation is, in our Opinions, absolutely necessary for the Honour of his Majesty's Government, and the Satisfaction of this House; we cannot therefore agree to the Resolution, which, as we conceive, may be construed to stop all future Inquiries into this Matter.

V. Whatever Measures may have been taken to preserve *Gibraltar* and the Isle of *Minorca*, yet we cannot agree to declare them honourable, just, and necessary, before they have been fully consider'd by the Committee; and the rather, because we find it asserted, on the Part of *Spain*, in one or more of the Memorials before the House, that a positive Promise has been made, on the Behalf of *Great Britain*, for the Restitution of *Gibraltar* to *Spain*; on the Performance of which Promise *Spain*, as it appears to us, still insists: We cannot therefore agree to the Resolution, before the Truth and all the Circumstances of that pretended Promise are thoroughly examin'd into; which Promise, if it should appear to have been made, as is asserted, we are of Opinion, that it was highly criminal in those who advised it.

VI. The Measures taken for maintaining the *British* Commerce and the Tranquility of *Europe* have not, as we think, been under the distinct Consideration of the Committee, since the Memorials and Letters were laid before the House: And the Oppositions made, if any, on Behalf of *Great Britain* at the Court of *Vienna*, to the *Osford* Company, are unknown to us, as well as the Circumstances relating to the late *Baltick* Expedition; and yet all these Matters were the proper Consideration of the Committee; for which, and the other Reasons abovemention'd, we being apprehensive, that the Resolution propos'd may not give solid Ground of Satisfaction to the People of *Great Britain*, or to any Foreign Powers in Alliance with us, or conduce to the Honour of his Majesty's

Anno 13. Geo. I. Government, or the Support of the Dignity of this House  
 cannot agree thereto.

1726-27.

*Scarsdale, Bruce, Strafford, St John de Bletsoe, Weston,  
 Oxford and Mortimer, Bristol, Montjoy, Lechmere,  
 Gower, Compton, Coventry, Aberdeen, Boyle, Bat-  
 burff, Foley.*

Lord Lechmere  
 moves for an  
 Address to the  
 King, to make  
 farther Instances  
 with the King of  
 Prussia and the  
 States General,  
 for their more  
 entire Concur-  
 rence with his  
 Majesty.

After this a Motion was made by Lord *Lechmere*, and se-  
 conded by Lord *Foley*, That an humble Address be made  
 to his Majesty, representing the deep Concern of this House,  
 on the Prospect of the imminent Dangers which threaten  
 these Kingdoms, and all *Europe*, at this Juncture, from the  
 formidable Confederacies which his Majesty assured his Par-  
 liament were entered into between the Courts of *Spain, Vi-  
 enna, Russia*, and other great Powers, whereby the general  
 Tranquility may soon be broke, and *Europe* engaged in a  
 new War: And it appearing to this House, from the *Act  
 of Accession of the States General*, and the separate Articles  
 thereto belonging, that their Accession is made upon several  
 Conditions and Reserves, on their Part, and particularly,  
 that in the separate Article concerning the Commerce from  
 the *Austrian* Low Countries to the *Indies*, it is provided,  
 ' That, if, on account of their use of their Rights of  
 ' Commerce, or in Hatred of that Alliance, any Distur-  
 ' bance should happen, and his Imperial Majesty should  
 ' suspend or retain the Payment of the Subsidies due to the  
 ' Republick, for the Maintenance of their Troops in the  
 ' Places of the Barrier, or the Payment of the Interest and  
 ' Principal placed by Mortgage on divers Funds assign'd by  
 ' his Imperial Majesty for the Security of that Payment,  
 ' or make use of any other Kind of Reprizals or Ways of  
 ' Force, That it is the Intention of the other Contracting  
 ' Powers to protect and maintain the States General in their  
 ' Rights of Commerce to the *Indies*, and guarranty them  
 ' from all the Consequences which might result therefrom,  
 ' without having Power to proceed by Force against the  
 ' Company of *Ossend*, before the Contracting Powers shall  
 ' have agreed thereon. And, by another separate Article,  
 ' it being stipulated and reserved to the States General, that  
 ' they shall continue to have the same Liberty, with respect  
 ' to every Thing that shall be proposed to them by the  
 ' Contracting Powers, upon such Points, whose Object shall  
 ' be the maintaining the Balance of Power in *Europe*, as  
 ' they had before their Accession, without being bound by  
 ' their Accession to take Part in the Measures which they  
 ' should not consent to.'

And

And it appearing to this House, That his *Prussian* Majesty did not concur in the said Accession of the States General, in Consequence of all which the Strength and Security which the Treaty of *Hanover* might otherwise import, in the present unhappy Conjunction is much weakened, and, in Case of a general Rupture, the Danger, as well as the Burthen of the War must fall upon *Great Britain*, and the Preservation of the Balance of Power in *Europe* depends on the Continuance of the Friendship and Assistance of *France* alone, unless more effectual Measures are taken for that great End;

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Therefore that this House, out of Duty to his Sacred Majesty, and from their unfeigned Zeal for the Safety of his Government and the Liberties of *Europe*, doth most earnestly beseech his Majesty, to make new and pressing Instances with his *Prussian* Majesty, and the States General, to concur with his Majesty, and his other Allies, in such Manner as the present critical and dangerous Juncture requires, and as, in the Event of a War, in case a War is unavoidable, his Majesty may, by the Blessing of God, secure a just Balance of Power in *Europe*, as well as the Religion, Liberties, Properties and Commerce of his Subjects.

But this being objected to, and the Question put, whether such an Address be made to his Majesty? It was resolved in the Negative.

#### *Dissentient*

The Address proposed representing, as we think, the present State of the late Defensive Alliance made at *Hanover*, which, for ought appears to us, is the main Support on which *Great Britain* can depend, beside its own Strength, in a Case of a general Rupture in *Europe*; we thought it highly necessary, that it should have passed into a Resolution, whereby his Majesty's Hands might have been strengthened in his future Concerts with his Allies, and such further Measures effected, as are necessary to preserve his Alliances during the War, against the dangerous Combinations levelled against *Great Britain*, and by which such a Repartition of Conquests, in case of Success, might be previously settled, as, in the Event, would prevent the Loss of a just Balance of Power in *Europe*; and we are the more convinced of the Necessity of the Advice proposed in the Address, because we find in one of the Letters laid before the House, That a Proposition has been made by the Court of *Spain* to the King of *France*, tho' not agreed to, to declare himself against *Great Britain*, on a Pretence (which we

Protest on the said Motion's passing in the Negative.

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hope is groundless) That the Defensive Alliance between Great Britain and France doth no longer subsist.

*Scarsdale, St John de Bletsoe, Gower, Bristol, Coventry, Strafford, Batburſt, Montjoy, Boyle, Compton, Bruce, Aberdeen, Weſton, Oxford and Mortimer, Lechmere, Maſham, Foley.*

Motion for a farther Consideration of the King's Speech.

Then it was moved to resolve, That this House will on this Day Sev'nnight take into farther Consideration his Majesty's most gracious Speech. And after Debate, the Question being put upon the said Motion? It was resolv'd in the Negative.

Protest on its passing in the Negative.

### *Dissentient*

I. Because the Committee having sat one Day only on the Consideration of his Majesty's Speech, could possibly deliberate but upon few of the many weighty Points which arise thereon; on all which the Advice and Support of this House, in our Opinions, is absolutely necessary; and since even the Facts relating to many of these weighty Matters have not, as we conceive, been yet laid before the House, we think the farther Consideration of the Speech should not have been refused; there not being, as we believe, any Precedent for such a Refusal, under the like Circumstances on the Journals of this House.

II. His Majesty's Speech containing the Causes of calling his Parliament, and the Advice of this House to the Crown being required thereon, the Refusal of the Day proposed, seems to us tending to disable the House from discharging their Duty to the Crown, as well as to the Kingdom, in this critical and dangerous Juncture; and as the further Consideration proposed, is thereby at present refused, the Precedent, as we fear, lays a Foundation for depriving this House, in future Times, of any Opportunity at all for such Considerations, by which Means this House must (in our Opinions) be rendered useless in those great Affairs whereon the Safety and Support of the Liberties of the Kingdom may depend.

*Bruce, Aberdeen, Strafford, Bristol, Scarsdale, Oxford and Mortimer, Lechmere, Weſton, Maſham, Coventry, Batburſt, Montjoy, Boyle, Foley, St. John de Bletsoe, Gower, Compton.*

M. de Palm's Memorial laid before the House.

March 13. Lord Batburſt mov'd for an Address to his Majesty, for the Memorial deliver'd to his Majesty by M. de Palm, and being seconded by the Earl of Strafford, the said

said Motion pass'd into a Resolution. Hereupon Lord *Lechmere* took Notice to the House, ' That the most material Point in the Memorial in Question, was the peremptory and positive Denial of any Offensive Alliance between the Emperor and this Kingdom; that, in order to clear that important Matter, it was necessary to know upon what Grounds such an Alliance had been charged upon those two Potentates; and therefore he moved, to address his Majesty that he would be graciously pleased to order the Papers and Informations his Majesty had receiv'd concerning that Affair, to be laid before them.' But this Motion was dropp'd without a Debate.

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1727.  
Debate thereon.  
Lord Lechmere.

On the next Day *M. de Palm's* Memorial being laid before the House, a Motion was made to take the same immediately into Consideration, upon which Lord *Lechmere* said, ' That it was to him Matter of Surprise, that a Memorial in which his Majesty's Honour, and the Dignity of the Crown of *Great Britain* were so highly concerned, had not been sooner laid before that illustrious Assembly, who having the Prerogative of approaching nearest the Throne, ought to resent, and on all Occasions have shewn themselves ready to vindicate any Injuries and Affronts that are offer'd to their Sovereign. That the Affair now before them, was of a very nice Nature, and no less Importance; That they ought to proceed in it with mature Deliberation, and therefore he moved to put off the Consideration of it, at least till the next Day.' But this Debate was interrupted by a Message brought by the Lord *Hervey* from the Commons, desiring a Conference with their Lordships, upon a Matter of the highest Importance to the Honour and Dignity of the Imperial Crown of *Great Britain*. This Conference being readily agreed to by the Lords, and the Managers of both Houses met in the *Painted Chamber*, those of the Commons, desired the Concurrence of the Lords to their Address relating to *M. de Palm's* Memorial; and the Managers for the Commons left the said Address with the Lords, with other Papers relating thereto. The next Day, at another Conference, the Managers for the Lords declared to those for the Commons, that their Lordships had agreed to the said Address; \* which, on the 16th of *March* was presented to the King, by both Houses.

The Lords con-  
cur with the  
Commons in an  
Address to the  
King on that  
Occasion.

*April* 18, The Lords, in a grand Committee, took into Consideration a Bill, *For continuing the Duties on Malt, &c.* when there arose a very great Debate about the following

Debate on a  
Clause empower-  
ing his Majesty  
to employ, with-  
out Account,  
Clause, such Sums as he  
thinks proper for  
the Interest of  
the Kingdom.

\* For the Address, and his Majesty's Answer, see Chandler's History of the House of Commons, Anno 1727, p. 392; in the Appendix to which *M. de Palm's* Memorial is inserted at large.

Anno 13. Geo. I. Clause, viz. ' That out of the Supplies granted this Session, 1727.

D. of Argyle.  
D. of Newcastle.  
Ld Townshend.  
Bp of Peterborough.  
E. of Chesterfield.  
Ld Bathurst.  
Ld Bingley.  
Ld Lechmere.

' there may be issued such Sums of Money as shall be necessary for defraying such Expences and Engagements, as have at any Time been, or till Christmas next may be made, by his Majesty, in concerting such Measures as he thinks proper for the Security and Interest of these Kingdoms, and restoring the Peace of Europe.' The Dukes of *Argyle* and *Newcastle*, the Lord *Townshend*, and the Bp. of *Peterborough*, spoke for the Clause : The Earl of *Chesterfield*, Lord *Bathurst*, Lord *Bingley*, and Lord *Lechmere*, against it : But it was carried by 76 Voices against 20, that the said Clause should make Part of the Bill. Next Day the said Bill was read the third Time, and the Question being put that the said Bill do pass ? it was resolv'd in the Affirmative ; Content 73. Not Content 17.

Protest on the said Clause being pass'd.

### *Dissentient*

Because in this Bill it is enacted, ' That out of the Aids or Supplies, granted this Session of Parliament, there shall or may be, from Time to Time, issued or applied such Sum or Sums of Money, as shall be necessary for and towards answering and defraying such Expences and Engagements as have at any Time been, or shall, before or until the 25th Day of *December* 1727, be made by his Majesty, in concerting such Measures as he, in his great Wisdom, thinks will best conduce to the Security of the Trade and Navigation of this Kingdom, and to the preserving and restoring the Peace of *Europe*.' Which Clause, we think, is inconsistent with that Part of the Bill, which forbids the Supplies to be issued for any other Purposes than those specified, and renders ineffectual that Appropriation of the publick Money, which the Wisdom of many Parliaments has thought, and we are convinc'd, ought to be thought a necessary Security against the Misapplication of it.

II. Because there is no Provision in the Bill to oblige any Person to give an Account of any Money, that shall be disposed of by Virtue of the Power in this Clause.

III. Because there are sufficient Sums granted to answer every particular Purpose that Money can be wanted for, as far as our present Views can reach ; and if any unforeseen Emergency should demand a further Supply, we should think that might be provided for, as has been formerly practised, when Necessity required ; and we are persuaded this might be done with less Inconvenience, than by this Delegation of almost a dictatorial Authority, at least, till the Parliament could be called together, who have given so many Instances of their Zeal for his Majesty, that he could have

no Room to doubt of their Readiness to make good whatever he should have expended for the Advantage of his People. Anno 13. Geo. I.  
1727.

IV. Because we think, that absolute Powers ought to be given in a free Government only upon Occasions of evident Necessity, and when the very Being of the Government is in Danger ; and though we allow our present Circumstances to be as melancholy as they have almost at any Time been, yet we think it a very improper Remedy for our present State to depart from the approved, and in our Judgment, essential Forms of giving the publick Money ; nor can we be persuaded, that is the only, or even the best Expedient that can be found to extricate us out of our unhappy Situation, to repose such a Confidence in the Crown, in the Disposition of immense Sums of Money, as may by the Advice of wicked and incapable Ministers (if it should be our Misfortune ever to have such) be attended with great Prejudice to our Properties, and great Danger to our Liberties, with the Hopes of the Preservation of which we cannot flatter ourselves, but by a strict Adherence to those excellent Parliamentary Methods, of granting all Sums of Money only upon Estimates, and for Services publickly avowed.

V. Because the Precedents that were offer'd to justify this Cause were far from giving us any Satisfaction, for if they had been plain and full to the Point (which we think they were not) yet, in our Opinions, ought not to be followed, lest Clauses of the same Nature might become too frequent, and lest an unlimited Power in the Crown to raise Millions on our Fellow-Subjects might be looked upon by Degrees as a Thing of Course, and so at last the total Power to levy and dispose of the People's Money be given to one Part of the Legislature, which by our wise Constitution is, and with Safety can only be lodged in the whole.

*Strafford, Warrington, Scarsdale, Coventry, Oxford and Mortimer, Gower, Litchfield, Boyle, Bingley, Lechmere, Aylesford, Foley, Maynard, Bathurst, Aberdeen, Cra-ven, Brooke.*

May 15. The King came to the House, and having given the Royal Assent to several Bills, the Lord Chancellor prorogu'd the Parliament to the 27th of June.

But on the 11th of that Month, his Majesty departed this Life on the Road to his German Dominions. The Death of  
King George I.

*In*



*In the Beginning of this VOLUME we gave the State of the PEERAGE at the Accession of his late Majesty King George I. The following is an exact ACCOUNT of the several Persons that were either created PEERS of Great Britain, or advanced in their PEERAGE by that Monarch, from the Death of Queen Anne, to the Accession of our present Sovereign King George II.*

*BARONS of Great Britain created by Patent.*

- I. **JAMES SAUNDERSON**, *Viscount Castleton in Ireland, and Bart. created Baron Saunderson of Saxby, Oct. 19. 1714. and afterwards a Viscount and Earl.*
- II. **Bennet Sherrard**, *Baron Shetrard of Ireland, created Baron of Harborough, Oct. 19. 1714. and afterwards a Viscount and Earl.*
- III. **Gervase Pierpoint**, *Baron of Ardglash in Ireland, created Baron Pierpoint of Hanslope, Oct. 19. 1714; extinct.*
- IV. **Hon. Henry Boyle, Esq;** *created Baron of Carleton, Oct. 19. 1714. extinct.*
- V. **Sir Richard Temple, Bart.** *created Baron of Cobham, Oct. 19. 1714. since a Viscount.*
- VI. **Sir Thomas Parker, Kt.** *created Baron Parker of Macclesfield, March 9. 171 $\frac{1}{2}$ . since an Earl.*
- VII. **Thomas Coningsby**, *Baron of Clanbrazil in Ireland, created Baron Coningsby, June 25. 1716. since an Earl.*
- VIII. **Sir Richard Onslow, Bart.** *created Baron Onslow, June 25, 1716. He died Dec. 5, 1717, and was succeeded by his Son Thomas.*
- IX. **Hon. Thomas Newport, Esq;** *Brother of Richard late Earl of Bradford, created Baron of Torrington, June 25. 1716. extinct.*
- X. **Lieutenant General William Cadogan**, *created Baron Cadogan of Reading, June 25. 1716.*
- XI. **Sir Robert Martham, Bart.** *created Baron of Romney, June 25. 1716. He died Nov. 28. 1724. and was succeeded by his Son Robert.*
- XII. **George Cholmondeley**, *Baron of Newburgh in Ireland, created Baron of Newburgh, July 2. 1716. By the Death of his Brother Hugh, Jan. 18. 172 $\frac{1}{2}$ , he became Earl of Cholmondeley, &c.*
- XIII. **Matthew Ducy-Moreton, Esq;** *created Lord Ducy de Moreton, June 8. 1720.*
- XIV. **Nicholas Lechmere, Esq;** *created Baron Lechmere of Evelham, Aug. 25. 1721. extinct.*

**BARONS**

XV. Robert Walpole, *jun. Esq; created Baron Walpole of Walpole*, June 1. 1723.

XVI. *Sir Peter King, Kt. created Baron King of Ockham*, May 28. 1725.

*BARONS of Great Britain, Call'd up by Writ to the House of Peers.*

I. *Hon. Richard Lumley, Esq; eldest Son of Richard Earl of Scarbrough, called up by the Title of Baron Lumley*, March 10, 1714. *By the Death of his Father*, Dec. 17. 1721. *he became Earl of Scarbrough, &c.*

II. *Rt. Hon. Peregrine Bertie, Esq; called up by the Title of Baron Willoughby of Eresby*, March 16, 1714. *By the Death of his Father July 26, 1723, he became Duke of Ancaster and Kesteven, &c.*

III. *Rt Hon. Charles Poulett, Esq; called up by the Title of Baron St John of Basing*, April 13, 1717. *By the Death of his Father, Jan. 21, 1724, he became Duke of Bolton, &c.*

IV. *Rt Hon. Anthony de Grey, Esq; only Son of Henry Duke of Kent, called up by the Title of Baron Lucas of Crudwell*, Nov. 6, 1718. *He died July 20, 1723. Extinct.*

V. *Hon. Charles Townshend, Esq; eldest Son of Charles Viscount Townshend, called up by the Title of Lord Lynn of Lynn-Regis*, May 24. 1723.

*VISCOUNTS of Great Britain.*

I. **H**ENRY Obrian, *Earl of Thomond in Ireland, created Viscount Tadcaster*, Oct. 19, 1714.

II. *Sir Henry St John, Baronet, Father of Henry late Viscount Bolingbroke, created Viscount St John, and Baron of Battersea*, July 2, 1716.

III. *James Saunderson, Baron Saunderson, created Viscount Castleton*, July 2, 1716.

IV. *James Stanhope, Esq; created Viscount Stanhope of Mahone, and Baron Stanhope of Elvafton*, July 12, 1717.

V. *Richard Temple, Baron of Cobham, created Viscount Cobham*, April 7, 1718.

VI. *Bennet Sherrard, Baron of Harborough, created Viscount Sherrard of Stapleford*, Sept. 6, 1718.

VII. *Hugh Boscawen, Esq; created Viscount Falmouth, and Baron Boscawen-Rose*, June 8, 1720.

VIII. *John Wallop, Esq; created Viscount Lymington, and Baron Wallop of Wallop*, June 8. 1720.

IX. *Simon Harcourt, Baron Harcourt, created Viscount*

Harcourt, Aug. 24, 1721. *He died July 28, 1727, and was succeeded by his Grandson Simon.*

X. Sir George Byng, *Kt. and Bart. created Viscount Torrington and Baron Byng of Southill, Sept. 9, 1721.*

### EARLS of Great Britain.

I. **H**enry Paget, *Baron Paget, created Earl of Uxbridge, Oct. 19, 1714.*

II. Lewis Watson, *Baron Rockingham, created Earl of Rockingham, Viscount Sondes, and Baron of Throwley, Oct. 19, 1714. He died March 20, 1724, and was succeeded by his Grandson Lewis.*

III. Charles Bennet, *Baron Ossulston, created Earl of Tankerville, Oct. 19, 1714. He died May 21, 1722, and was succeeded by his eldest Son Charles.*

IV. Heneage Finch, *Baron of Guernsey, created Earl of Aylesford, Oct. 19, 1714. He died July 24, 1719, and was succeeded by his Son Heneage.*

V. John Hervey, *Baron Hervey of Ickworth; created Earl of Bristol, Oct. 19, 1714.*

VI. Thomas Pelham, *Baron Pelham of Laughton, created Earl of Clare, and Viscount Pelham, Oct. 19, 1714.*

VII. James Brydges, *Baron Chandos of Sudley Castle, created Earl of Caernarvon, and Viscount Wilton, Oct. 19, 1714.*

VIII. Charles Montagu, *Baron Halifax, created Earl of Halifax, and Viscount Sunbury, Oct. 19, 1714. He died May 19, 1715, and was succeeded in the Barony (only) by his Nephew George Montagu, Esq; who was also created Earl of Halifax.*

IX. Talbot Yelverton, *Viscount Longueville, Baron Grey of Ruthen, and Bart. created Earl of Suffex, Aug. 3, 1717.*

X. William Cowper, *Baron Cowper of Wingham, and Bart. created Earl Cowper, and Viscount Fordwich, March 18, 1717. He died Oct. 10, 1723, and was succeeded by his Son William.*

XI. James Stanhope, *Viscount Stanhope of Mahone, &c. created Earl Stanhope, April 7, 1718. He died Feb. 5, 1727, and was succeeded by his Son Philip.*

XII. William Cadogan, *Baron Cadogan of Reading created Earl of Cadogan, Viscount Caversham, and Baron of Oakley, April 7, 1718. He died July 17, 1726. By his Death the Titles of Earl and Viscount became extinct, but was succeeded in the Barony by his Brother Charles.*

XIII. Tha-

XIII. Thomas Coningsby, *Baron Coningsby, created Earl Coningsby*, April 30, 1719.

XIV. Bennet Sherrard, *Viscount Sherrard, created Earl of Harborough*, May 4, 1719.

XV. James Saunderson, *Viscount Castleton, created Earl Castleton of Sandbeck*, June 13, 1720. Died May 23, 1723. *Extinct*.

XVI. Thomas Parker, *Baron Parker, created Earl of Macclesfield, and Viscount Parker of Ewelme*, Nov. 15, 1721.

XVII. Thomas Farmer, *Baron Lempster, and Bart. created Earl of Pomfret*, Dec. 21, 1721.

XVIII. *Rt. Hon. David Graham, Esq; eldest Son of James Duke of Montrose, created Earl and Baron Graham of Belford*, May 6, 1722.

XIX. *Rt Hon. Robert Ker, Esq; eldest Son of John Duke of Roxburgh, created Earl and Baron Ker of Wakefield*, May 6, 1722.

#### MARQUESSSES of Great Britain.

I. **T**homas Wharton, *Earl of Wharton, &c. created Marquess of Wharton and Malmesbury*, December 24, 1714. He died April 12, 1715, and was succeeded in all his Titles by his Son Philip.

II. William Herbert, *Son of William late Marquess of Powis, who died in 1696, restored to the Titles of Marquess and Earl of Powis, Viscount Montgomery, and Baron Powis of Powis-Castle in the County of Montgomery; his Father's Attainder being reversed*, April 11, 1722.

#### DUKES of Great Britain.

I. **R**obert Bertie, *Marquis and Earl of Lindsey, &c. created Duke of Ancaster and Kettleby*, June 29, 1715. He died July 26, 1723, and was succeeded by his eldest Son Peregrine.

II. Evelyn Pierpoint, *Marquess of Dorchester, &c. created Duke of Kingston*, July 20, 1715. He died March 5, 1723, and was succeeded by his Grandson Evelyn.

III. Thomas-Holles Pelham, *Earl of Clare, &c. created Duke of Newcastle and Marquess of Clare*, July 29, 1715.

IV. Henry Bentinck, *Earl of Portland, &c. created Duke of Portland, and Marquess of Titchfield*, July 6, 1716. He died July 4, 1726, and was succeeded by his eldest Son William.

V. Philip Wharton, *Marquess of Wharton, &c. created Duke of Wharton*, January 20, 1717. *Extinct*.

VI. Charles Montagu, *Earl of Manchester, &c. created Duke*  
1727. O o o 2

*Duke of Manchester*, April 30, 1719. *He died January 20, 172½, and was succeeded by his eldest Son William.*

VII. James Brydges, *Earl of Caernarvon, &c. created Duke of Chandos, and Marquess of Caernarvon*, April 30, 1719.

VIII. John Campbell, *Earl of Greenwich, &c. created Duke of Greenwich*, April 30, 1719.

IX. Lionel Cranfield Sackville, *Earl of Dorset, &c. created Duke of Dorset*, June 13, 1720.

X. Scroop Egerton, *Earl of Bridgewater, &c. created Duke of Bridgewater*, June 13, 1720.

*PRINCES of the Blood Royal created Peers, or advanced.*

I. **H**IS Royal Highness George Augustus, *Prince of Great Britain, &c. &c. created Prince of Wales, and Earl of Chester and Flint*, Sept. 27. 1714.

II. His Royal Highness Ernest Augustus, *Brother to his Majesty, created Duke of York and of Albany*, June 29, 1716. *Extinct.*

III. His Royal Highness Frederick Lewis, *eldest Grandson of his Majesty, created Duke of Edinburgh, Marquess of the Isle of Wight, Earl of Eltham, Viscount Launceston, and Baron of Snaudon*, July 15, 1726.

IV. His Royal Highness William Augustus, *second Grandson of his Majesty, created Duke of Cumberland, Marquess of Berkhamstead, Earl of Kennington, Viscount Trematon, and Baron of Alderney*, July 15, 1726.

*P E E R E S S E S of Great Britain.*

I. **G**RACE Carteret, *Daughter of John Granville, late Earl of Bath, and Mother of John Lord Carteret, created Countess Granville, and Viscountess Carteret*, Dec. 17, 1714.

II. Margaret Coningsby, *Daughter of Thomas Earl Coningsby, created Viscountess and Baroness Coningsby*, Nov. 16. 1716.

III. Erengard Melosine Schulenburg, *Duchess of Munster, &c. created Duchess of Kendal, Countess of Faversham, and Baroness of Glastenbury*, April 30, 1719.

IV. Sophia Charlotte Platen, *Countess of Platen, &c. in Germany; created Countess of Darlington, and Baroness of Brentford*, April 10, 1722. *She died April 20. 1725. Extinct.*

V. Melosine, *Baroness of Schulenburg, Niece to the Duchess of Kendal, created Countess of Walsingham, and Baroness of Aldborough*, April 10, 1722.

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